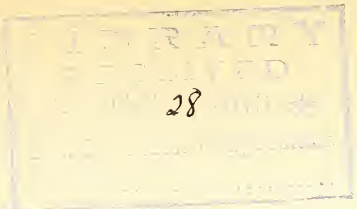

Notice of Judgment Nos. 123–133. Issued January 25, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NOS. 123–133, FOOD AND DRUGS ACT.

(N. J. 123.)

ADULTERATION AND MISBRANDING OF VANILLA EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 26th day of April, 1909, in the district court of the United States for the western district of Missouri, in a prosecution by the United States against the Paddock Coffee and Spice Company, a corporation of Kansas City, Mo., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Missouri to Kansas an adulterated and misbranded vanilla extract, the said Paddock Coffee and Spice Company entered a plea of guilty and the court imposed upon it a fine of $25.

The facts in the case were as follows:

On August 13, 1907, an inspector of the Department of Agriculture purchased from Price & Kimball, Rosedale, Kans., a sample of an article of food labeled: "2 oz. full measure Paddock's Vanilla

Flavor. This flavor is made from Vanilla Beans, Vanillin, Coumarin, Alcohol and water and is colored with Caramel. Guaranteed under Food & Drugs Act June 30/06. Guarantee No. 92, Paddock Coffee & Spice Co., K. C., Mo." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Vanillin (per cent)	0.158
Coumarin (per cent)	0.08
Resins	Very small amount.
Coloring matter	Caramel.
Amyl Alcohol	Trace natural color.

Vanilla extract, or flavor, as recognized by reliable manufacturers and dealers, is the flavoring extract prepared from vanilla bean and contains the soluble matters from not less than 10 grams of the vanilla bean to each 100 cc.

The analysis of the aforesaid sample disclosed practically the total absence of extract of the vanilla bean and the presence of artificial coloring matter, hence the article was adulterated within the meaning of section 7 of the act, in that a mixture of substances lacking the essential ingredient had been substituted wholly for a vanilla flavor which it purported to be, and had been artificially colored with caramel in order to conceal inferiority, and was misbranded within the meaning of section 8 of the act, in that it was labeled "Vanilla Flavor," and bore the statement that it was made from vanilla bean, which said statements were false, misleading, and deceptive, because it was not vanilla flavor and did not contain extract of vanilla bean.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to Price & Kimball, the dealers from whom the sample was purchased, as well, also, as to the manufacturer and shipper, Paddock Coffee and Spice Company, and gave them an opportunity to be heard. Paddock Coffee and Spice Company being the party solely responsible for the adulteration and misbranding of the article, and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on March 25, 1908, the said Secretary reported the facts and evidence to the Attorney-General, by whom they were referred to the United States attorney for the western district of Missouri, who filed an information against the said Paddock Coffee and Spice Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 124.)

ADULTERATION AND MISBRANDING OF BUCKWHEAT FLOUR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 16th day of February, 1909, in the district court of the United States for the western district of Virginia, in a prosecution by the United States against H. B. Staley and T. F. Staley, conducting business under the firm name H. B. Staley & Co., at Marion, Va., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Virginia to West Virginia a quantity of flour labeled and branded "Marion Roller Mills Old Virginia Water Ground Buckwheat Flour Manufactured by Hull & Staley Co., Marion, Va. 12 lbs. buckwheat," which was adulterated and misbranded, in that it was not buckwheat flour, but a mixture of three-fourths buckwheat and one-fourth wheat flour, and was not manufactured by the Hull & Staley Co., the said H. B. Staley having entered a plea of guilty, the court imposed upon him a fine of $10 and costs of the prosecution, and on motion of the United States attorney dismissed the case as to T. F. Staley.

The facts in the case were as follows:

On December 21, 1907, an inspector of the Department of Agriculture purchased from the Mercer Merchandise Company, Bluefield, W. Va., a sample of flour labeled "Marion Roller Mills Old Virginia Water Ground Buckwheat Flour, Manufactured by Hull & Staley Co., Marion, Va. 12 lbs. buckwheat." The flour had been manufactured by H. B. Staley & Co., at Marion, Va., and by this firm shipped to the Mercer Merchandise Company on or about December 11, 1907. The sample was subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture, and was found to contain approximately 25 per cent of wheat flour.

It was evident that the article was both adulterated and misbranded within the meaning of sections 7 and 8 of the aforesaid act: adulterated because wheat flour had been mixed and packed with buckwheat flour, thereby reducing and lowering its quality and strength; and misbranded because labeled "Buckwheat Flour," whereas it was not buckwheat flour, but a mixture of one-fourth wheat flour and three-fourths buckwheat flour, and because it purported to have been manufactured by the Hull & Staley Co., whereas it was manufactured by H. B. Staley & Co.

The Secretary of Agriculture having afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis, and they having failed to do so, the facts were duly reported to the

Attorney-General and the case referred to the United States attorney for the western district of Virginia, who filed an information against the said H. B. Staley and T. F. Staley, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 125.)

ADULTERATION OF MILK.

(ADDED WATER.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 9th day of April, 1909, in the district court of the United States for the eastern district of Kentucky, Thomas Corbin, W. M. Ficke, W. F. Johnson, B. M. Mullins & Sons, Joseph Geiger, Theodore Groger, Henry Nostheide, Charles Peoples, jr., W. F. Hogan, J. C. Kirby, John Meiman, Owen Dunnaway, Stephen Schackle, W. H. Perry, Henry Ducker, B. Evers & Sons, and Willie Reeves, having been arraigned upon informations theretofore filed by the United States attorney severally charging them with a violation of section 2 of the aforesaid act in shipping and delivering for shipment, from places in Kentucky, to Cincinnati, Ohio, milk adulterated in this, that water had been mixed therewith so as to reduce and lower its quality and strength, and that water had been substituted in part for the milk, and having severally entered their plea of guilty, the court sentenced each of them to pay a fine of $15.

The facts in the cases were as follows:

On September 1, 2, and 3, 1908, inspectors of the United States Department of Agriculture procured samples of milk from cans shipped to Cincinnati, Ohio, from outlying points in Kentucky. Fifteen of the consignments from which samples were taken were made to French Brothers Dairy Company by Thomas Corbin, Erlanger; W. M. Ficke, Buffington; W. F. Johnson, Demosville; B. M. Mullins & Sons, Catawba; Joseph Geiger, Erlanger; Theodore Groger, Devon; Henry Nostheide, Devon; Charles Peoples, jr., Lynn; J. C. Kirby, Lynn; John Meiman, Devon; Owen Dunnaway, Butler; Stephen Schackle, Butler; W. H. Perry, Devon; B. Evers & Sons, Sanfordtown; and Willie Reeves, Butler; one of the consignments was made to Liberty Ice Cream Company by W. F. Hogan, Devon, and one to Moreland Dairy and Creamery Company by Henry Ducker, Butler. The inspectors saw all the aforesaid consignments of milk, except that of B. Evers & Sons, which was trans-

ported by wagon across the bridge from Covington, delivered to and loaded by the respective railroads and accompanied them to Cincinnati, where the samples were procured. Analyses of the several samples were duly made in the Bureau of Chemistry of the United States Department of Agriculture, and it was found that in each case water had been added to and mixed with the milk. The milk was adulterated within the meaning of section 7 of the Food and Drugs Act in that a substance, water, had been mixed with it so as to reduce and lower its quality and strength and a substance, water, had been substituted in part for milk. The shippers were duly cited to hearings, and having failed to show any error in the results of the analyses, the Secretary of Agriculture reported the facts to the Attorney-General, who forthwith transmitted the evidence to the United States attorney for the eastern district of Kentucky, by whom informations were filed against the aforesaid shippers, with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 126.)

MISBRANDING OF CANNED CORN.

(UNDER WEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act, June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of April, 1909, in the district court of the United States for the northern district of Texas, in a proceeding of libel by the United States under section 10 of the aforesaid act for seizure and condemnation of 688 cases of canned corn which were misbranded in that they were labeled and branded "2 doz. 2 lbs.," whereas the cans in said cases were of less weight than 2 pounds—that is to say, were not of more than 1 pound 10 ounces, the Otoe Preserving Company, a corporation of Nebraska City, Nebr., packer and consignor of the goods, having been admitted as claimant thereto, and having filed its stipulation agreeing that the court should determine the matter upon the allegations of the libel, and the case having come on for final hearing on the date above mentioned, the court adjudged the goods misbranded and entered its decree in substance and in form as follows:

THE UNITED STATES
v.
688 CASES CANNED CORN. } No. 6.

On this day by agreement came on to be heard the above styled and numbered cause, and the court having considered the allegations of the libel, and

being familiar with the law, is of the opinion that the said cases in which the cans of corn are contained are misbranded as to weight within the meaning of the act of Congress of June 30, 1906, and the court being so of the opinion, orders, adjudges, and decrees that the same said 688 cases of canned corn are misbranded within the meaning of the said act of Congress.

It is further ordered that the marshal of the United States for the northern district of Texas proceed to dispose of said 688 cases of canned corn as in the said act provided and that the libelants, the United States, recover all costs in this behalf; for which let execution issue.

April 19, 1909.

The facts in the case were as follows:

On or about October 13, 1908, an inspector of the Department of Agriculture found in the possession of the Brady-Neely Grocer Company, Amarillo, Tex., 688 cases (each containing 24 cans) of corn, 472 of which were labeled and branded "2 doz. 2 lbs. Otoe Cream Sugar Corn. Nebraska City Canning Company, Nebraska City, Neb.," and 216 of which were labeled "2 doz. 2 lbs. Pioneer Brand Corn, Packed by Nebraska City Canning Company, Nebraska City, Neb." These goods had been shipped to the Brady-Neely Grocer Company on or about June 11, 1908, and August 6, 1908, by the Otoe Preserving Company from Nebraska City, Nebr. A number of the cans of both brands were weighed by the inspector, and it was found that the average gross weights varied from 1 pound 7 ounces to 1 pound 10 ounces. The goods were misbranded within the meaning of section 8 of the act, in that the contents of the cans were stated in terms of weight, but incorrectly so, and on October 14, 1909, the Secretary of Agriculture reported the facts to the United States attorney for the northern district of Texas, by whom libel for seizure and condemnation of the goods was duly filed and 480 of the aforesaid cases seized by the marshal, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 127.)

ADULTERATION AND MISBRANDING OF SYRUP.

(AS TO PRESENCE OF GLUCOSE.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on June 30, 1909, in the district court of the United States for the western district of Tennessee, in a proceeding of libel under section 10 of the aforesaid act, for seizure and condemnation of 427 cases of syrup,

adulterated and misbranded as hereinafter stated, wherein the United States were libelants and the Alabama-Georgia Syrup Company was claimant, the said claimant having appeared and admitted the allegations of the libel and the case having come on for a hearing, a decree of forfeiture and condemnation was rendered by the court in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TENNESSEE.

THE UNITED STATES
v.
427 CASES OF SYRUP.

In this cause it appearing to the court, the United States of America, by George Randolph, United States attorney, and the Alabama Georgia Syrup Company, by its president, L. B. Whitfield, the claimants and owners of the property seized herein, consenting thereto, that under the process issued in this cause the 358 cases of syrup branded "Alaga Syrup, Alabama Georgia Syrup Company, Montgomery, Ala.," were seized by the U. S. marshal in the warehouse and place of business of the Oliver-Finnie Grocery Co., in the city of Memphis, Shelby County, Tenn., and that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein—that is to say, that said 358 cases of syrup contained a large per cent of glucose, which had been substituted in part for the said syrup, and the brand and labels on the said cans were misleading and calculated to deceive purchasers.

And it further appearing, by like consent, that the said Alabama Georgia Syrup Company have agreed that an order may be entered at once condemning and confiscating the said property to the United States,

It is therefore ordered, adjudged, and decreed that the said 358 cases of syrup now in the possession of the marshal of this court be, and the same are hereby, declared to be forfeited and confiscated to the United States.

It is further ordered, however, that upon payment by the said Alabama Georgia Syrup Company of the costs of this proceeding and the execution and delivery of a good and sufficient bond, to be filed with the clerk in this cause, conditioned that said 358 cases of syrup shall not be sold or otherwise disposed of contrary to the provisions of the act commonly known as the Pure Food and Drugs Act or contrary to the laws of the State of Tennessee, then the marshal of this court is hereby directed to deliver said property to the Alabama Georgia Syrup Company, or to their representative. The costs shall be paid and the bond given within fifteen days from the date of this order.

The facts in the case were as follows:

On or about June 25, 1909, an inspector of the Department of Agriculture found in the possession of the Oliver-Finnie Company, Memphis, Tenn., 427 cases of a syrup labeled "Alaga Syrup, Alabama-Georgia Syrup Company, Montgomery, Ala.," together with a pictorial design of a bundle of sugar cane tied with streamers of ribbon bearing the words "Alabama-Georgia," and a scene showing the gathering of sugar cane from a field, together with the following legend: "Alaga—contents of this can is put up direct from the evap-

orator while hot. Guaranteed to retain its natural sweet flavor indefinitely," while upon the sides of the label in small type was the following legend: "Alaga Brand Syrup is a blend of Pure Ribbon Cane Syrup, with just enough corn syrup to keep the same from sugaring or souring. Its merit is what tells." This syrup had been shipped by the Alabama-Georgia Syrup Company from Montgomery, Ala., to the Oliver-Finnie Company, Memphis, Tenn., on February 6, 1909; April 7, 1909; May 5, 1909; and June 2, 1909. A sample of the syrup was subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture, and the results showed the product to be composed of cane syrup and 28 per cent of glucose. It was evident that the product was adulterated and misbranded; adulterated, in that glucose had been mixed and packed with the cane syrup and substituted in part therefor, thereby reducing and lowering its quality and strength; and misbranded, in this, that the labels were so worded and bore such pictures and devices as to lead the purchaser to believe that he was purchasing a product made entirely from sugar cane, whereas it was a mixture of glucose and cane syrup. Accordingly, on June 26, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the western district of Tennessee, who duly filed a libel for seizure and condemnation of the goods, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 128.)

MISBRANDING OF CANNED CORN.

(UNDER WEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 7th day of May, 1909, in the district court of the United States for the western district of Texas, in a proceeding of libel for condemnation of 430 cases of canned corn which were misbranded in this, that they were labeled "2 doz. 2 lb.," whereas the cans contained therein weighed less than 2 pounds; that is to say, an average of 1½ pounds, wherein the United States were libelants and the Atlantic Canning Company, an unincorporated association of Atlantic, Iowa, was claimant, the said claimant having filed its answer and waived a jury and the parties having submitted the matter to the court upon an agreed statement of facts and the case having come on for final

hearing on the above-mentioned date, the court rendered its decree of forfeiture and condemnation in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DISTRICT OF TEXAS, AT SAN ANTONIO.

THE UNITED STATES OF AMERICA, *Libelant*,
v.
430 CASES OF CANNED CORN. } No. 143, D. C. L.

DECREE OF CONDEMNATION.

On this the 7th day of May, A. D. 1909, at a regular term of said court sitting at the city of San Antonio, in said district, this cause regularly came on for trial, and it appearing to the court that upon the libel filed herein monition and warrant of arrest were duly issued and served on the — day of February, A. D. 1909, and that by virtue of said warrant the marshal has seized and now holds the 430 cases of canned corn of the approximate value of five hundred thirty-seven and 50/100 ($537.50) dollars, containing two dozen cans to the case; the said 430 cases of canned corn, with contents, having been seized within the premises and in the possession of Caffarelli Brothers, a partnership composed of R. C. Caffarelli and F. P. Caffarelli, with a place of business at No. 111 to 115 Military Plaza, city of San Antonio, in said district, and now being stored in the custody of the said marshal, and it appearing that the Atlantic Canning Company, of Atlantic, Iowa, an unincorporated concern, the respondent herein, the owner of said 430 cases of canned corn, had duly filed an answer and waiver of further notice and summons herein, and were present in court by their agent, and also by their attorney of record herein, William Aubrey, esquire, and that due and legal notice and proclamation were given to all persons having or claiming to have any claim, right, or interest therein, or in or to said property, to appear on the same date and answer the said libel, and the said Caffarelli Brothers having been duly served as individuals, and as a partnership, and the said Atlantic Canning Company having so appeared by William Linnartz, their agent and representative, and William Aubrey, their attorney aforesaid, and filed their said answer to the said libel, and the libelant, appearing by Charles C. Cresson, jr., assistant United States attorney for the western district of Texas; the jury being waived by all parties and said cause being tried by the court, the libelant and respondent each making a statement to the court and agreeing in open court as to the facts in the case, and upon said agreement, in open court, submit the same to the court and agree upon the judgment.

And the court now being fully advised in the premises, finds for the libelant and finds that the contents of said 430 cases of canned corn contain each two dozen cans of canned corn, an article of food, and that the said cases are misbranded within the meaning of the act of Congress of June 30, 1906, entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, liquors, and for regulating traffic therein, and for other purposes," and that the same has been transported as canned corn, in interstate commerce, from the town of Atlantic, in the State of Iowa, to the city of San Antonio, in the State of Texas, consigned to the said Caffarelli Brothers, a partnership composed of R. C. Caffarelli and F. P. Caffarelli, of said city of San Antonio, Texas, being all of such consignment found in original unbroken packages; that is, the court finds that said articles of food are misbranded and are in violation of said act of Congress in that said cases and cans, and each of them, contain less in weight than the amount as shown by the brands thereon, and that

the said articles of food were so transported in interstate commerce and consigned and delivered to the said Caffarelli Brothers.

The court further finds that the articles of food contained in the said 430 cases is not adulterated, poisonous, or deleterious, but that the violation of said act of Congress is in the misbranding of said cases as to the quantity contained in each case, and that the same were consigned only to a wholesale dealer and not sold direct to the public for consumption.

Wherefore it is ordered, adjudged, and decreed by the court that the said 430 cases of canned corn, with the contents as aforesaid, be, and they hereby are, declared to be misbranded, in violation of the act of June 30, 1906, as charged in said libel; and it is further ordered, adjudged, and decreed that the said 430 cases of canned corn, with the contents as aforesaid, be, and they hereby are, condemned and forfeited, as provided for in the said act of June 30, 1906. It is provided, however, that upon the payment of all the costs in the proceeding herein, including all court, clerk's, and marshal's costs, and costs of hauling, storage, watchman, and all other costs incident to or contracted in this proceeding, and the execution and delivery by the said Atlantic Canning Company, an unincorporated concern to the libelant of a good and sufficient bond in the sum of eleven hundred dollars ($1,100.00); conditioned, that the said 430 cases of canned corn, with the contents, as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, or to the laws of any State, Territory, District, or insular possession, and that said Atlantic Canning Company will well and truly pay all costs in this behalf incurred; that said marshal shall redeliver the said 430 cases of canned corn, with such of their contents as they now contain or may contain, at the time of said redelivery, to the said Atlantic Canning Company, and their agent and representative, Caffarelli Brothers, in lieu of the retention and destruction thereof; the said bond to be filed herein, if at all, on this the 7th day of May, A. D. 1909; and that the libelant receive from the said Atlantic Canning Company, an unincorporated concern, its costs herein taxed at ——, for all of which execution shall issue, if the said costs are not paid as hereinbefore provided.

T. S. Maxey,
United States District Judge.

The facts in the case were as follows:

On or about February 2, 1909, an inspector of the Department of Agriculture found in the possession of Caffarelli Brothers, San Antonio, Tex., 430 cases (each containing 24 cans) of corn, labeled and branded, "2 Doz. 2 Lb. Ben Hur Brand Sugar Corn, Packed by Atlantic Canning Company, Atlantic, Ia. Guaranteed absolutely pure and to comply with National Pure Food Laws." These goods were shipped to Caffarelli Brothers by the Atlantic Canning Company from Atlantic, Iowa, on or about November 14, 1908. A number of cans were weighed by the inspector, and the average weight per can was found to be 1½ pounds. On February 2, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the western district of Texas, and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

James Wilson,
Secretary of Agriculture.

Washington, D. C., *January 10, 1910.*

(N. J. 129.)

ADULTERATION AND MISBRANDING OF BUCKWHEAT FLOUR.

(AS TO PRESENCE OF WHEAT FLOUR.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 17th day of May, 1909, in the district court of the United States for the southern district of California, in a prosecution by the United States against M. A. Newmark & Co., a corporation of Los Angeles, Cal. (F. & D. No. 226), for violation of section 2 of the act in the shipment and delivery for shipment from California to Arizona of flour contained in cartons which were labeled "Self-Raising Buckwheat Flour. Ready for immediate use. Manufactured by Sunset Pure Food Co., Los Angeles, Cal.," which said flour was adulterated and misbranded in that it contained a considerable quantity of wheat, the said M. A. Newmark & Co. having entered a plea of guilty, the court imposed upon it a fine of $10.

The facts in the case were as follows:

On January 17, 1908, an inspector of the Department of Agriculture purchased from Spittler & Morris, Yuma, Ariz., a sample of flour labeled on the principal label "Self-Raising Buckwheat Flour. Ready for immediate use. Manufactured by Sunset Pure Food Co., Los Angeles, Cal." This sample was examined in the Bureau of Chemistry of the United States Department of Agriculture and found to contain an abundance of wheat flour mixed with buckwheat. It was apparent that the product was both adulterated and misbranded within the meaning of sections 7 and 8 of the act; adulterated, in that wheat flour had been substituted in part for the buckwheat flour, thereby reducing and lowering its quality and strength; and misbranded, in that it was labeled "Self-Raising Buckwheat Flour," whereas it was not buckwheat flour, but a mixture of buckwheat and wheat flours.

The Secretary of Agriculture afforded the parties an opportunity to show any fault or error in the findings of the analyst; Spittler & Morris established a guaranty from M. A. Newmark & Co., which company received the goods from the manufacturers, the Capital Milling Company (The Sunset Pure Food Company, Los Angeles, Cal.), but failed to establish a guaranty or show any fault or error in the findings of the analyst. The facts were accordingly reported by the Secretary of Agriculture to the Attorney-General and the case referred to the United States attorney for the southern district of California, who filed an information against the said M. A. Newmark & Co., with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 130.)

ADULTERATION AND MISBRANDING OF LEMON EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 9th day of June, 1909, in the circuit court of the United States for the eastern district of Louisiana, in a prosecution against Albert Mackie Grocer Company (Limited), a corporation of New Orleans, La. (F. & D. No. 482), for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Louisiana to Mississippi, an adulterated and misbranded lemon extract, the said Albert Mackie Grocer Company (Limited), entered a plea of guilty, whereupon the court imposed upon it a fine of $10 and costs of the prosecution.

The facts in the case were as follows:

On April 7, 1908, an inspector of the United States Department of Agriculture purchased from N. B. Whalen, McComb City, Miss., a sample of lemon extract, labeled "McE. Brand Flavoring Extract of Lemon. Albert Mackie Grocer Co., Ltd., New Orleans, La.," which had been manufactured and shipped by the Albert Mackie Grocer Company (Limited), from New Orleans, La., to the said dealer on or about August 15, 1907. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture, and the following results obtained and stated:

Specific gravity (15.5° C.)	0.9614
Alcohol by volume (per cent)	34.35
Solids (grams per 100 cc)	0.46
Lemon oil (by polarization) (per cent)	0.5
Lemon oil (by precipitation)	None.
Color	Coal tar.

Lemon extract, as recognized by the Department of Agriculture and reputable manufacturers in the United States, is the flavoring extract prepared from oil of lemon or from lemon peel, or both, and contains not less than 5 per cent by volume of lemon oil.

It was evident that the product was both adulterated and misbranded within the meaning of sections 7 and 8 of the act; adulterated, because a substance had been substituted in whole or in part for oil of lemon, and because it was an imitation extract colored with a coal-tar dye to give it the color of genuine lemon extract, thereby concealing inferiority; and misbranded, because labeled "Extract of Lemon" whereas it was not lemon extract.

The Secretary of Agriculture having, on September 30, 1908, afforded the manufacturers an opportunity to show any fault or error in the aforesaid analysis, and they having failed to do so, the facts were reported to the Attorney-General and the case referred to the United States attorney for the eastern district of Louisiana, who filed

an information against the Albert Mackie Grocer Company (Limited), with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, *D. C., January 10, 1910.*

(N. J. 131.)

MISBRANDING AND ADULTERATION OF RYE FLOUR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 18th day of May, 1909, in the district court of the United States for the district of Minnesota, in a prosecution by the United States against the Hastings Milling Company, of Owatonna, Minn. (F. & D. No. 159), for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Minnesota to Iowa of a flour labeled "Perfecta Rye Flour" and "Rye Flour Compound," which was adulterated and misbranded, in that it was a mixture of rye flour and wheat flour, the said Hastings Milling Company entered a plea of guilty, whereupon the court imposed upon it a fine of $10.

The facts in the case were as follows:

On October 31, 1907, an inspector of the Department of Agriculture purchased from F. Jacobs, Forest City, Iowa, a sample of a food labeled and branded "Hastings Milling Co. Perfecta Rye Flour, Owatonna, Minn.," and "Rye Flour Compound." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture, and was found to be a mixture of rye flour and wheat flour.

It was evident that the product was both adulterated and misbranded within the meaning of sections 7 and 8 of the act; adulterated because wheat flour had been mixed and packed with the rye flour, thereby reducing and lowering its quality and strength; and misbranded in that the sacks labeled "Perfecta Rye Flour" and "Rye Flour Compound" did not contain rye flour, but a mixture of rye and wheat flours.

The Secretary of Agriculture having, on May 20, 1908, afforded the manufacturers an opportunity to show any fault or error in the findings of the analyst, and they having failed to do so, the facts were reported to the Attorney-General on August 22, 1908, and the case referred to the United States attorney for the district of Minnesota, who presented the facts to the grand jury, by whom an indictment was duly returned against the said Hastings Milling Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 132.)

ADULTERATION OF MILK.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgments of the court in the cases of the United States *v.* M. Boyle (F. & D. No. 439), United States *v.* C. E. Williams (F. & D. No. 440), and United States *v.* J. C. Kotzenberg (F. & D. No. 441), prosecutions lately pending in the district court of the United States for the eastern district of Wisconsin for violations of section 2 of the aforesaid act in the shipment from Wisconsin to Illinois by the aforesaid defendant, M. Boyle, of milk which was adulterated within the meaning of section 7 of the act, in that water had been mixed with, and substituted in part for, the milk, thereby lowering and reducing its quality and strength; and in the shipment by the aforesaid defendants, Williams and Kotzenberg, from Wisconsin to Illinois of milk which was adulterated within the meaning of section 7 of the act, in that cream, a valuable constituent thereof, had been abstracted therefrom. On June 26, 1909, the defendant M. Boyle, having been arraigned upon an information alleging the aforesaid shipment by him of adulterated milk, entered his plea of guilty and was sentenced by the court to pay a fine of $25. On April 16, 1909, the defendants C. E. Williams and J. C. Kotzenberg, having been arraigned upon informations alleging the aforesaid shipments by them of adulterated milk, entered their pleas of guilty and were sentenced by the court to pay a fine of $25 each and stand committed to jail until such fine should be paid.

These cases were based upon samples of milk procured by inspectors of the United States Department of Agriculture on August 28, 1908, from the shipping cans after the milk had reached Chicago from the respective consignees and points of shipment, namely, M. Boyle, Woodworth, Wis.; C. E. Williams, Genoa Junction, Wis.; and J. C. Kotzenberg, Bassett, Wis., for delivery to J. H. Tylen, F. Deitmer, and Theodore Renz, respectively. The inspectors saw the said several shipments of milk delivered to the railroads at the points of shipment, identified each shipment with its consignor, and accompanied them to Chicago. The aforesaid samples were duly analyzed in the Bureau of Chemistry of the United States Department of Agriculture, and it was found that those taken from the milk shipped by the said Williams and Kotzenberg contained, respectively, an average of a little less than 8.70 per cent of solids not fat and 2.6 per cent of milk fat, and 8.50 per cent of solids not fat and 2.6 per cent of milk fat, indicating that the milk had been skimmed, and that those taken from the milk shipped by said Boyle contained a little less than 7.36 per cent of solids not fat and 3.1 per cent of milk fat, indicating that water had been added to the milk.

It appearing from the aforesaid analyses that the milk was adulterated, the Secretary of Agriculture gave notice to the respective parties and gave them an opportunity to be heard, but the said parties having failed to show any fault or error in the result of the said analyses and it being determined that the milk was adulterated, the said Secretary, on February 17, 1909, reported the facts and evidence to the Attorney-General, by whom they were referred to the United States attorney for the eastern district of Wisconsin, who filed informations against the aforesaid defendants, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 133.)

ADULTERATION AND MISBRANDING OF OLIVE OIL.

(A MIXTURE OF COTTONSEED AND OLIVE OILS.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 15th day of June, 1909, in the circuit court of the United States for the eastern district of Louisiana, in a prosecution by the United States against King Brothers, Shilstone & Saint (Limited), a corporation of New Orleans, La. (F. & D. No. 295), for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Louisiana to Texas an article of food labeled "Balbiani & Cie. Huile d'Olive Superfine Raffinee," which was adulterated and misbranded within the meaning of sections 7 and 8 of the act, the said defendant having entered a plea of guilty, the court imposed upon it a fine of $10 and costs.

The facts in the case were as follows:

On January 28, 1908, an inspector of the Department of Agriculture purchased from Ullman, Stern & Krausse, Galveston, Tex., a sample of oil contained in bottles upon the principal label of which was printed "Balbiani & Cie. Huile d'Olive Superfine Raffinee," and upon a supplemental label, "This product is a compound of salad oil and imported olive oil, packed by King Bros., Shilstone & Saint, Ltd., New Orleans, La." On the back of each bottle was a label printed in Italian, French, and English to the effect that the oil of the new firm of Balbiani & Cie. was guaranteed free from mixture. This sample was a part of a shipment made on or about October 29, 1907, by the manufacturers, King Brothers, Shilstone & Saint (Limited), from New Orleans, La., to said Ullman, Stern & Krausse. The sample was analyzed in the Bureau of Chemistry of

the United States Department of Agriculture, and the following results obtained and stated:

Specific gravity (15.5° C.)	.92207
Index refraction (15.5° C.)	1.4731
Iodin number	104.89
Halphen test	Positive.
Villavecchia test	Negative.
Renard test	Negative.
Adulterant	Cottonseed oil.

It was evident from this analysis that the article was a mixture of cottonseed oil and olive oil, the former predominating. It was therefore adulterated within the meaning of section 7 of the act, in that cottonseed oil had been substituted in part for olive oil, which it purported to be, and cottonseed oil had been mixed with olive oil so as to reduce its quality and strength, and was misbranded within the meaning of section 8 of the act, in that the statements and representations on the labels that it was olive oil and a foreign and imported article produced by a foreign company, Balbiani & Cie., and guaranteed free from mixture, were false, misleading, and deceptive. The statement on the supplemental label that the product was packed by King Brothers, Shilstone & Saint (Limited) did not cure the false, misleading, and deceptive character of the principal and secondary labels, since the packing of the oil by King Brothers, Shilstone & Saint could not be inconsistent with the representation that the oil was produced in a foreign country by a foreign company, nor was the statement on the label that it was a compound of salad oil and imported olive oil true, because the usual acceptation of the term "salad oil" does not include cottonseed oil.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to Ullman, Stern & Krausse, the dealer from whom the sample was purchased, as well also as to the manufacturer and shipper, King Brothers, Shilstone & Saint (Limited), and gave them an opportunity to be heard. King Brothers, Shilstone & Saint being the party solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on December 30, 1908, the said Secretary reported the facts and evidence to the Attorney-General, by whom they were referred to the United States attorney for the eastern district of Louisiana, who filed an information against the said King Brothers, Shilstone & Saint, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

O

Notice of Judgment Nos. 134–140. Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NOS. 134–140, FOOD AND DRUGS ACT.

(N. J. 134.)

MISBRANDING OF "BUCHU GIN."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 10 cases of Baird-Daniels Co.'s Distilled Buchu Gin, a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of said 10 cases of buchu gin lately pending, and finally determined on August 11, 1909, in the supreme court of the District of Columbia by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

A sample of gin (I. S. No. 21119–a) labeled and branded "Baird-Daniels Co.'s Distilled Buchu Gin. Without an equal for kidney and bladder troubles" had been analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain 38.66 per cent of alcohol and a mere negligible quantity of buchu when, on or about March 24, 1909, an inspector of said Department found in the possession of A. E. Beitzel, 401 O street NW., Washington, D. C., 10 cases of the aforesaid gin, each case containing bottles inclosed in cartons and all being labeled and branded "Baird-Daniels Co.'s Distilled Buchu Gin. Without an equal for kidney and bladder troubles," said 10 cases of gin having been shipped on March 15, 1909, from New York, N. Y., by Baird-Daniels Company to the said Beitzel, Washington, D. C. From the aforesaid analysis

it appeared that the gin was misbranded within the meaning of section 8 of the act, for the reasons that it failed to bear a statement on the labels of the quantity or proportion of alcohol contained therein and because the representation and statement on the labels that it contained buchu and was "without an equal for kidney and bladder troubles" were misleading, deceptive, and false in that by the use of the name "buchu," particularly in connection with the statement that the preparation was without an equal for kidney and bladder troubles, it was intended that the purchaser should believe that the article contained at least a sufficient quantity of buchu to produce a therapeutic effect, while in fact there was so small a quantity of buchu present that the preparation could have no resultant medicinal efficacy, and the preparation was not without an equal for kidney and bladder troubles.

Accordingly, on March 25, 1909, the Secretary of Agriculture notified the United States attorney for the District of Columbia that the aforesaid 10 cases of buchu gin were then in the possession of A. E. Beitzel in said District, having been shipped as above stated, and that they were misbranded within the meaning of the act. (F. & D. No. 537.) On March 26, 1909, the United States attorney filed a libel in the supreme court of the District of Columbia, praying seizure, condemnation, and forfeiture of the said gin, wherein the misbranding of the article is fully set out as follows:

II.

Your libellant represents to the court that in the city of Washington, District of Columbia, and within the jurisdiction of this honorable court, are certain articles of drug and food; that is to say, a certain liquid preparation intended to be used both as a cure and mitigation of disease of man and as a food and drug by man, of the particular description following: Ten cases, more or less, each case containing, to wit, certain bottles of the said liquid preparation, each case and each bottle thereof bearing a certain brand and label upon which is printed the following: "Baird-Daniels Co.'s Distilled Buchu Gin. Without an equal for kidney and bladder troubles;" said cases and the bottles contained therein, of the said liquid preparation, being now in the possession of and held by a certain A. E. Beitzel, at premises Number 401 O street northwest, in the said city of Washington, in the District aforesaid.

III.

Your libellant further represents that the said ten cases, more or less, and each of the bottles contained in each of said cases as aforesaid, of said liquid preparation, are illegally held within the jurisdiction of this honorable court for that the same are misbranded within the meaning and intent and in violation of the said act of Congress approved June 30, A. D. 1906, and are liable to condemnation and confiscable as provided therein, for the reasons following:

a. In that the said liquid preparation so contained in said cases and bottles contains a large quantity of alcohol, in the proportion of, to wit, thirty-eight and sixty-six one-hundredths per cent of the volume of said liquid preparation so contained in said cases and bottles; but the said cases and bottles so containing

the said liquid preparation fail to bear any statement, upon either said cases or said bottles, of the proportion and quantity of alcohol so contained in said liquid preparation, as required by the said act of Congress approved June 30, A. D. 1906.

b. In that the labels by which each of the said cases and bottles of said liquid preparation are branded as aforesaid, bearing the printed matter aforesaid, namely: "Baird-Daniels Co.'s Distilled Buchu Gin. Without an equal for kidney and bladder troubles," signify and import, by the use of the word "buchu" as a part of the style and name of said liquid preparation, that the said liquid preparation contains a drug and medicinal product commonly known as buchu, and thereby that the said drug is present in the said liquid preparation in a sufficient quantity and proportion to be an effective medicinal constituent and agency in the use of the said liquid preparation; whereas in fact, the quantity and proportion of buchu contained in said liquid preparation is so small as to be non-effective as a medicinal agency in the use of said liquid preparation. The said word "buchu" so appearing upon said labels is therefore false and misleading, tending to deceive the persons purchasing and using said liquid preparation.

Your libellant further charges that the printed matter so appearing upon each of the labels on each of the said cases and bottles of said liquid preparation is further false and misleading, tending to deceive the purchaser thereof, by reason of the use of the statement, to wit, "Without an equal for kidney and bladder troubles," in that such statement represents and signifies that the said liquid preparation is a superior and unequalled remedy for disorders and diseases of the kidneys and bladder, whereas in fact the said liquid preparation is not a superior and unequalled remedy for disorders and diseases of the kidneys and bladder.

Your libellant further represents that the printed matter contained on the labels as aforesaid, and read and considered as a whole, represents that the said liquid preparation is an effective remedy for kidney and bladder troubles by reason of the medicinal quality of the drug buchu so represented to be contained in said liquid preparation, whereas by reason of the insufficient quantity and proportion of buchu, as well as by reason of the absence of any special remedial qualities of the said liquid preparation, the said printed matter is false and misleading, in violation of the said act of Congress approved June 30, A. D. 1906.

The case having come on for final hearing on August 11, 1909, and the said A. E. Beitzel, claimant of the gin, having failed to answer the allegations of the libel, but consenting to a decree of condemnation and forfeiture, the court rendered its decree in substance and in form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA, *Libellant*, *v.* TEN CASES OF A FOOD AND DRUG labelled and known as "Baird-Daniels Co.'s Distilled Buchu Gin."	District docket No. 808.

Upon motion of the libellant for judgment of condemnation of the articles seized herein, and it appearing to the court that upon the libel filed herein on

March 26, A. D. 1909, a warrant of arrest was duly issued, under which the marshal of the United States for the District of Columbia has seized nine cases of the liquid preparation described in said libel and known as Baird-Daniels Co.'s Distilled Buchu Gin, which are inventoried as of the value of fifty-four dollars, as shown by the return of the marshal filed herein; and it appearing to the court that proper notice and citation has been duly made and served, and that the claimant, A. E. Beitzel, has duly appeared herein, but that no answer has been filed to the libel within the time provided, and no objection being signified to the court, it is this 11th day of August, A. D. 1909,

Adjudged, ordered and decreed that the said nine cases, and each and all of the bottles of said liquid preparation contained therein, seized by the marshal herein as aforesaid, and now in his custody, be, and they hereby are, declared to be misbranded in violation of the Food and Drugs Act approved June 30, 1906, in manner and form as more particularly set forth in the libel filed herein.

And the said A. E. Beitzel, claimant herein, having moved the court for the return and delivery to him of the articles seized herein, upon the payment of the costs of the proceedings herein, and the execution and delivery of a good and sufficient bond, as provided by section 10 of the said act of Congress, and no objection to the contrary being made, it is further adjudged that upon the said A. E. Beitzel's paying the costs of these proceedings and executing and delivering to said marshal a good and sufficient bond in the penal sum of five hundred dollars ($500), conditioned that the said cases, bottles, and packages, so seized as aforesaid, and the contents thereof, shall not be further held, used, or circulated with the branding and statements in use at the time of the seizure, as set forth in said libel, and shall not otherwise violate the provisions of the Food and Drugs Act approved June 30, 1906, with respect to said articles, the said marshal shall deliver the aforesaid cases, bottles, and packages, and the contents thereof, to the said claimant, in lieu of the disposition thereof by sale or destruction, as required by said act, approved June 30, 1906, as aforesaid.

By the court.

ASHLEY M. GOULD, *Justice.*

We consent:

WOLF & ROSENBERG,
Attorneys for Claimant.

The said claimant, Beitzel, having complied with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1906, the said 9 cases of buchu gin were redelivered to him.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 135.)

MISBRANDING OF VANILLA EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 24th day of April, 1909, in the district court of the United States for the district of Maryland, in a prosecution by the United States against McCormick & Co., of Baltimore, Md., a body corporate, for violation of section 2 of the aforesaid act, in shipping and delivering

for shipment from Maryland to Virginia a misbranded vanilla extract, said McCormick & Co. entered a plea of guilty and the court imposed upon it a fine of $20.

The facts in the case were as follows:

On April 15, 1908, an inspector of the Department of Agriculture purchased from A. Brinkley & Co., Norfolk, Va., a sample (I. S. No. 1793–a) of an article of food labeled "Silver Medal Concentrated Flavoring Vanilla Compound. Vanilla Bean, .33%; Vanillin, .45%; Coumarin, .12%; Alcohol, 30.%; Syrup, 70.%; Color, Q. S. Silver Medal Extract Co. Guaranteed under Food and Drugs Act, June 30, 1906. Guaranty No. 1417." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Alcohol by volume (per cent)	13.62
Methyl alcohol	None.
Vanillin (per cent)	.16
Coumarin (per cent)	.055
Total solids (per cent)	27.44
Coloring matter	Caramel.
Precipitate with lead acetate.	

Vanilla extract, or flavor, as recognized by reliable manufacturers and dealers, is the flavoring extract prepared from the vanilla bean, and contains the soluble matters from not less than 10 grams of the vanilla bean to each 100 cc. The analysis of the aforesaid sample disclosed practically the total absence of extract of the vanilla bean. It was misbranded within the meaning of section 8 of the act in that it was labeled "Silver Medal Concentrated Flavoring Vanilla Compound" and bore a statement that it was made from the vanilla bean, which said statements were false, misleading, and deceptive, because it was not vanilla flavoring and did not contain extract of the vanilla bean.

It appearing from the aforesaid analysis that the article was misbranded, the Secretary of Agriculture gave notice to A. Brinkley & Co., the dealers from whom the sample was purchased, and also to McCormick & Co., the manufacturer and shipper, and gave them an opportunity to be heard. McCormick & Co. being the party solely responsible for the misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was misbranded, on April 5, 1909, the said Secretary reported the facts and evidence (F. & D. No. 536) to the Attorney-General, by whom they were referred to the United States attorney for the district of Maryland, who filed an information against the said McCormick & Co., with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 136.)

ADULTERATION AND MISBRANDING OF LEMON EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 26th day of April, 1909, in the district court of the United States for the western district of Missouri, in a prosecution by the United States against the Paddock Coffee and Spice Company, a corporation of Kansas City, Mo., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Missouri to Kansas an adulterated and misbranded lemon extract, said Paddock Coffee and Spice Company entered a plea of guilty and the court imposed upon it a fine of $25.

The facts in the case were as follows:

On August 5, 1907, an inspector of the Department of Agriculture purchased from Henry Kulka, Kansas City, Kans., a sample (I. S. No. 1439) of a food product labeled "Paddock's Standard Lemon Flavor. Made from Oil of Lemon, Alcohol, and Water. Paddock Coffee & Spice Co., Kansas City, Mo." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Lemon oil	Absent.
Anilin dye	Absent.
Turmeric	Absent.
Citral	Trace.

Lemon extract, or flavor, as recognized by reliable manufacturers and dealers, is an extract prepared from oil of lemon or from lemon peel or both, and contains not less than 5 per cent by volume of oil of lemon. The analysis of the aforesaid sample disclosed practically the total absence of oil of lemon; hence the article was adulterated within the meaning of section 7 of the act in that a mixture of substances lacking the essential ingredient had been substituted wholly for lemon flavor, which it purported to be, and was misbranded within the meaning of section 8 of the act in that it was labeled "Standard Lemon Flavor. Made from oil of lemon," which statements were false, misleading, and deceptive, because it was not a standard flavor and contained no oil of lemon.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to Henry Kulka, the dealer from whom the sample was purchased, who in turn notified the Paddock Coffee and Spice Company, the manufacturer and shipper. On November 26, 1907, an opportunity to be heard was afforded said Paddock Coffee and Spice Company, and said company being the party solely responsible for the adulteration

and misbranding of the article, and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on June 17, 1908, the said Secretary reported the facts and evidence (F. & D. No. 113) to the Attorney-General, by whom they were referred to the United States attorney for the western district of Missouri, who filed an information against the said Paddock Coffee and Spice Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 137.)

MISBRANDING OF CHEESE.

(UNDER WEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act, June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of The United States *v.* 50 Packages of Cheese, a proceeding of libel under section 10 of the act in the district court of the United States for the western district of North Carolina for seizure and condemnation of the said cheese for the reason that it was misbranded within the meaning of section 8 of the act in that the box containing it bore figures falsely representing its weight. Baird Brothers, Asheville, N. C., consignees of the cheese, having set up their claim thereto and agreeing with the United States attorney to submit the matter to the court for decision, and the matter having come on for final hearing on March 1, 1909, upon the statements of the respective parties the court adjudged the cheese misbranded and rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, WESTERN DISTRICT OF NORTH CAROLINA—AT ASHEVILLE.

UNITED STATES OF AMERICA
v.
50 PACKAGES OF CHEESE.

This cause coming on to be heard, and it appearing to the court that upon the libel filed herein warrant of arrest was duly issued and served on the 21st day of January, 1909, and that by virtue of said warrant the marshal has seized and now holds 50 boxes of cheese, of the approximate value of $250, the said 50 boxes of cheese having been seized upon the premises and in the possession of Baird Bros., a partnership formed and doing business in the city of Asheville, N. C., within the said district, and that the said cheese is now in storage in the custody of the said marshal; and it appearing that Baird Bros.,

the respondents herein, the owners of the said 50 boxes of cheese so seized, were duly warned to appear herein, and that due and legal notice and proclamation were given to all persons having or claiming to have any right, title, or interest therein, or in or to said property, to appear and answer said libel, and that said Baird Bros. have so appeared; the libelant and respondent each making a statement to the court of their evidence and agreeing in open court to submit the same to the court, and the court now being fully advised in the premises finds for the libelant, and finds that the said 50 boxes of cheese contain articles of food, and that the said boxes are misbranded within the meaning of the act of Congress of June 30, 1906, the same having been transported in interstate commerce from the city of Louisville, Ky., consigned to Baird Bros., at Asheville, N. C., being all of such consignment found in original unbroken packages; that is, the court finds that the said articles of food are misbranded in violation of the said act of Congress in that said boxes and each of them contain less in weight than the amount as shown by the brands thereon, and that the said articles of food were transported in interstate commerce and consigned and delivered to the claimants aforesaid, wholesale dealers, at Asheville, N. C.

The court further finds that the articles of food contained in said 50 boxes of cheese is not adulterated, poisonous, or deleterious, but that the violation of the said act of Congress is in the misbranding of the said boxes, and that the same were consigned only to a wholesale dealer and not sold to the public for consumption.

Wherefore, it is ordered, adjudged, and decreed by the court that the said 50 boxes of cheese, with the contents as aforesaid, be, and they are hereby, declared to be misbranded in violation of the act of June 30th, 1906, as is charged in said libel, and it is further ordered that the said 50 boxes of cheese, with the contents as aforesaid, be, and they hereby are, condemned and forfeited, as provided for in the said act of June 30th, 1906. It is provided, however, that upon the payment of all the costs in the proceeding herein, including all court, clerk's, marshal's costs, and costs of hauling, storage, watchmen, and all other costs incident to or contracted in this proceeding, and the execution and delivery by the said Baird Bros. to the libelant of a good and sufficient bond in the penalty of three hundred dollars, conditioned that the said 50 boxes of cheese, with the contents as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, or to the laws of any State, Territory, or insular possession, that said marshal shall redeliver the said 50 boxes of cheese with such of their contents as they now contain, or may contain at the time of such redelivery, to Baird Bros. in lieu of the retention and destruction thereof; the clerk of this court will tax the costs in accordance with this order and furnish a copy thereof to claimants.

The clerk will enter. This March 1, 1909.

JAS. E. BOYD, *U. S. Judge.*

We consent to this decree.

J. G. MERRIMON,
Attorney for Claimants.

A. E. HOLTON,
U. S. Attorney.

The facts in the case were as follows:

On or about January 18, 1909, an inspector of the Department of Agriculture found in the possession of Baird Brothers, Asheville, N. C., 50 boxes of cheese which had been shipped to the said Baird Brothers by Crosby & Meyers from Louisville, Ky., on or about Janu-

ary 11, 1909, and which said boxes of cheese were labeled: "Full cream. In compliance with National Pure Food Law. Crosby & Meyers," and in addition, each box bore upon it penciled figures purporting to indicate the true weight of the cheese contained therein. The inspector weighed the boxes and found an average shortage per cheese of from 1½ to 2 pounds. The cheese were therefore misbranded within the meaning of section 8 of the Food and Drugs Act, in that the statement of weight was incorrect, and on January 19, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the western district of North Carolina, who filed a libel for seizure and condemnation of the said cheeses, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 138.)

MISBRANDING OF CHEESE.

(UNDER WEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act, June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 10 Packages of Cheese, a proceeding of libel under section 10 of the act in the district court of the United States for the western district of North Carolina for seizure and condemnation of the said cheese for the reason that it was misbranded within the meaning of section 8 of the act, in that the box containing it bore figures falsely representing its weight. Mustin Robertson Company, Asheville, N. C., consignees of the cheese, having set up their claim thereto and agreeing with the United States attorney to submit the matter to the court for decision, and the matter having come on for final hearing on March 1, 1909, upon the statements of the respective parties the court adjudged the cheese misbranded and rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, WESTERN DISTRICT OF NORTH CAROLINA—AT ASHEVILLE.

UNITED STATES OF AMERICA
v.
10 PACKAGES OF CHEESE. } Decree of condemnation.

This cause coming on to be heard and it appearing to the court that upon the libel filed herein warrant of arrest was duly issued and served on the 21st day

of January, 1909, and that by virtue of said warrant the marshal has seized and now holds 10 boxes of cheese, of the approximate value of fifty dollars, the said 10 boxes of cheese having been seized upon the premises and in the possession of Mustin-Robertson Co., a partnerhip formed and doing business in the city of Asheville, N. C., and within the said district; and that the said cheese is now in storage in the custody of the said marshal, and it appearing that Mustin Robertson Co., the respondents herein, the owners of the said 10 boxes of cheese so seized, were duly warned to appear herein, and that due and legal notice and proclamation were given to all persons having or claiming to have any right, title, or interest therein, or in or to said property, to appear and answer said libel, and that said Mustin Robertson Co. have so appeared; the libelant and respondent each making a statement to the court of their evidence and agreeing in open court to submit the same to the court, and the court now being fully advised in the premises finds for the libelant, and finds that the said 10 boxes of cheese contain articles of food and that the said boxes are misbranded within the meaning of the act of Congress of June 30, 1906, the same having been transported in interstate commerce from the city of Louisville, Ky., consigned to Mustin-Robertson Co., at Asheville, N. C., being all of such consignment found in original unbroken packages; that is, the court finds that the said articles of food are misbranded in violation of the said act of Congress in that said boxes and each of them contain less in weight than the amount as shown by the brands thereon and that the said articles of food were transported in interstate commerce and consigned and delivered to the claimants aforesaid, wholesale dealers, at Asheville, N. C.

The court further finds that the articles of food contained in said 10 packages of cheese are not adulterated, poisonous, or deleterious, but that the violation of the said act of Congress is in the misbranding of the said boxes and that the same were consigned only to a wholesale dealer and not sold to the public for consumption.

Wherefore it is ordered, adjudged, and decreed by the court that the said 10 boxes of cheese, with the contents as aforesaid, be, and they hereby are, declared to be misbranded in violation of the act of June 30, 1906, as charged in said libel, and it is further ordered that the said 10 boxes of cheese, with the contents aforesaid, be, and they hereby are, condemned and forfeited, as provided for in the said act of June 30, 1906. It is provided, however, that upon the payment of all the costs in the proceeding herein, including all court, clerks, and marshals costs, and costs of hauling, storage, watchmen, and all other costs incident to or contracted in this proceeding, and the execution and delivery by the said Mustin Robertson Co. to the libelant of a good and sufficient bond in the penalty of one hundred dollars, conditioned that the said 10 boxes of cheese, with the contents as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, or to the laws of any State, Territory, district, or insular possession, that said marshal shall redeliver the said 10 boxes of cheese with such of their contents as they now contain, or may contain at the time of such redelivery, to Mustin Robertson Co. in lieu of the retention and destruction thereof; the clerk of this court will tax the costs in accordance with this order and furnish a copy thereof to claimants.

The clerk will enter. This March 1, 1909.

JAS. E. BOYD, *U. S. Judge.*

We consent to this decree.

J. G. MERRIMON,
Attorney for Claimants.

A. E. HOLTON,
U. S. Attorney.

The facts in the case were as follows:

On or about January 18, 1909, an inspector of the Department of Agriculture found in the possession of Mustin Robertson Company, Asheville, N. C., 10 boxes of cheese which had been shipped to the said Mustin Robertson Company by Crosby & Meyers from Louisville, Ky., on or about November 21, 1908, and which said boxes of cheese were labeled: "Full Cream. In compliance with National Pure Food Law. Crosby & Meyers," and in addition each box bore upon it penciled figures purporting to indicate the true weight of the cheese contained therein. The inspector weighed the boxes and found an average shortage per cheese of from 1½ to 2 pounds. The cheeses were therefore misbranded within the meaning of section 8 of the Food and Drugs Act in that the statement of weight was incorrect, and on January 19, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the western district of North Carolina, who filed a libel for seizure and condemnation of the said cheeses, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 139.)

ADULTERATION AND MISBRANDING OF VANILLA EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 13th day of November, 1909, in the district court of the United States for the district of Maryland, in a prosecution by the United States against the Interstate Chemical Company, of Baltimore, Md., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Maryland to Texas an article of food labeled: "Kitchen Queen Vanilla. I. C. Co. Pure Product. Baltimore, Md., U. S. A. Guaranteed under the Food and Drugs Act of June 30, 1906. Serial No. 453. Interstate Chemical Co., Baltimore, Md. Our name is a guarantee of purity," which was adulterated and misbranded as hereinafter stated, the said Interstate Chemical Company having entered a plea of guilty, the court imposed upon it a fine of $25.

The facts in the case were as follows:

On April 19, 1909, an inspector of the Department of Agriculture purchased from the Waples-Platter Grocery Company, at Fort Worth, Tex., a sample of an article of food (I. S. No. 24138–a) labeled as hereinabove set out, which was part of a shipment made by the Interstate Chemical Company from Baltimore, Md., to the

Waples-Platter Grocery Company at Fort Worth, Tex., on or about December 15, 1908. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture, and the following results obtained and stated:

Alcohol, by volume (per cent)	25.64
Alcohol, methyl	None.
Vanillin (per cent)	0.23
Coumarin	None.
Resins	None.
Solids (per cent)	37.2
Sucrose (Clerget) (per cent)	35.3

Vanilla extract, or flavor, as recognized by reliable manufacturers and dealers, is the flavoring extract prepared from vanilla bean and contains the soluble matters from not less than 10 grams of the vanilla bean to each 100 cc. The analysis of the aforesaid sample disclosed that it was not a genuine vanilla extract, but a solution of artificial vanillin; hence it was adulterated, within the meaning of section 7 of the act, in that artificial vanillin had been substituted in part for extract of vanilla bean, thereby reducing and lowering its quality and strength, and misbranded, within the meaning of section 8 of the act, in that the statements on the labels that it was vanilla and a pure product were false, misleading, and deceptive.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to Waples-Platter Grocery Company, the dealers from whom the sample was procured, as well also as to the manufacturer and shipper, Interstate Chemical Company, and gave them an opportunity to be heard. Interstate Chemical Company being the party solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on August 28, 1909, the said Secretary reported the facts and evidence (F. & D. No. 822) to the Attorney-General, by whom they were referred to the United States attorney for the district of Maryland, who filed an information against the said Interstate Chemical Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

(N. J. 140.)

MISBRANDING OF VANILLA EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 29th

day of May, 1909, in the district court of the United States for the northern district of Ohio, in a prosecution by the United States against the John H. Fitch Company, a corporation of Youngstown, Ohio, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Ohio to Pennsylvania an article of food labeled and branded: "Baldwin's Superior Fruit Extracts, Highly Concentrated, Vanilla. Manufactured by the John H. Fitch Company, Youngstown, Ohio. Prepared at the Laboratories of Baldwin, Halcomb & Company," which was misbranded within the meaning of section 8 of the act in that it was not a highly concentrated but only a normal extract of vanilla, and was not prepared at the laboratories of Baldwin, Halcomb & Co., but by the said John H. Fitch Company at Youngstown, Ohio, the said defendant having entered a plea of guilty, the court imposed upon it a fine of $25 and costs.

The facts in the case were as follows:

On December 18, 1907, an inspector of the Department of Agriculture purchased from Nicholas Stroup, Sharon, Pa., a sample of an extract (I. S. No. 11924) labeled as above stated. This sample was part of a shipment by the John H. Fitch Company from Youngstown, Ohio, to the said Nicholas Stroup, on or about November 19, 1907. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Vanillin (grams per 100 cc.)	0.112
Coumarin	Absent.
Caramel	Present.
Resins	Fair amount present; no ppt. on addition of water, but showed on addition of HCl. Action of resins normal.
Sucrose (Clerget)	5.4

The analysis of this sample disclosed that it was only a normal vanilla extract, and it was ascertained that it was prepared and manufactured by the John H. Fitch Company; hence it was misbranded within the meaning of section 8 of the act in that the statements and representations on the label that it was a highly concentrated extract and prepared at the laboratories of Baldwin, Halcomb & Co. were false, misleading, and deceptive.

It appearing from the aforesaid analysis that the article was misbranded, the Secretary of Agriculture gave notice to Nicholas Stroup, the dealer from whom the sample was procured, as well also as to the manufacturer and shipper, John H. Fitch Company, and gave them an opportunity to be heard. John H. Fitch Company being the party solely responsible for the misbranding of the article, and

failing to show any fault or error in the result of the aforesaid analysis and it being determined that the article was misbranded, on March 20, 1909, the said Secretary reported the facts and evidence (F. & D. No. 515) to the Attorney-General, by whom they were referred to the United States attorney for the northern district of Ohio, who filed an information against the said John H. Fitch Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 10, 1910.*

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I. S. No. 12952.
F. & D. No. 286.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 141, FOOD AND DRUGS ACT.

MISBRANDING OF LEMON EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906 and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 1st day of July, 1909, in the District Court of the United States for the Eastern District of Wisconsin, in a prosecution by the United States against A. J. Hilbert & Company, a corporation of Milwaukee, Wisconsin, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Wisconsin to Minnesota a misbranded lemon extract, said A. J. Hilbert & Company entered a plea of guilty and the court imposed upon it a fine of $25.

The facts in the case were as follows:

On January 9, 1908, an inspector of the Department of Agriculture purchased from Latsch & Son, Winona, Minnesota, a sample (I. S. No. 12952) of a food product labeled: "Perfecto Terpeneless Lemon Flavor Absolutely Pure, Manufactured by National Extract Works, A. J. Hilbert & Co., Milwaukee, U. S. A." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Specific gravity	(15.6° C)	0.9592
Citral	(per cent)	.035
Alcohol	(volume per cent)	35.2
Methyl alcohol		Absent.
Color		Strong, lemon peel.

Terpeneless lemon extract, or flavor, as recognized by reliable manufacturers and dealers, is the flavoring extract prepared by shaking oil of lemon with dilute alcohol, or by dissolving oil of lemon in dilute alcohol, and containing not less than two-tenths per cent by weight

of citral derived from oil of lemon. The analysis of the aforesaid sample disclosed the fact that there was but a very small quantity of citral present, hence it was misbranded within the meaning of section 8 of the act in that it was labeled: "Perfecto Terpeneless Lemon Flavor Absolutely Pure," which statements were false, misleading, and deceptive in that it was only about one-fifth of the standard strength.

It appearing from the aforesaid analysis that the article was misbranded, the Secretary of Agriculture gave notice to Latsch & Son, the dealers from whom the sample was purchased, and also to A. J. Hilbert & Company, the manufacturer and shipper, and gave them an opportunity to be heard. Said company being the party solely responsible for the misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis and it being determined that the article was misbranded, on December 29, 1908, the said Secretary reported the facts and evidence (F. & D. No. 286) to the Attorney General by whom they were referred to the United States Attorney for the Eastern District of Wisconsin who filed an information against the said A. J. Hilbert & Company with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 10, 1910.

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I. S. No. 10559-a.
F. & D. No. 578.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 142, FOOD AND DRUGS ACT.

ADULTERATION OF ALMOND EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 24th day of June, 1909, in the District Court of the United States for the District of Colorado, in a prosecution by the United States against The Midland Grocery Company, a corporation of Denver, Colorado, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Colorado to Kansas an adulterated almond extract, said Midland Grocery Company entered a plea of guilty and the court imposed upon it a fine of $10.

The facts in the case were as follows:

On August 8, 1908, an inspector of the Department of Agriculture purchased from the Sweet Mercantile Company, Garden City, Kansas, a sample (I. S. No. 10559-a) of a food product labeled: "Midland's Flavoring Extracts—Bitter Almond. Prepared by Midland Grocery Co., Denver, Colo." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Specific gravity at 15.5° C	0.9405
Alcohol by volume (per cent)	46.86
Methyl alcohol	None.
Nitrobenzol	None.
Hydrocyanic acid (per cent)	.03
Benzaldehyde (per cent)	0.86

Almond extract, or flavor, as recognized by reliable manufacturers and dealers, is the flavoring extract prepared from oil of bitter

almonds, free from hydrocyanic acid, and contains not less than one per cent by volume of oil of bitter almonds. The analysis of the aforesaid sample disclosed that it contained hydrocyanic acid, hence the article was adulterated within the meaning of section 7 of the act in that it contained a deleterious ingredient, hydrocyanic acid, which may render the product injurious to health.

It appearing from the aforesaid analysis that the article was adulterated, the Secretary of Agriculture gave notice to the Sweet Mercantile Company, the dealer from whom the sample was purchased, and also to The Midland Grocery Company, the manufacturer and shipper, and gave them an opportunity to be heard. The Midland Grocery Company being the party solely responsible for the adulteration of the article and failing to show any fault or error in the result of the aforesaid analysis and it being determined that the article was adulterated, on May 8, 1909, the said Secretary reported the facts and evidence (F. & D. No. 578) to the Attorney General by whom they were referred to the United States Attorney for the District of Colorado who filed an information against the said Midland Grocery Company with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 10, 1910.

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I. S. No. 2161-a
F. & D. No. 484.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 143, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF STRAWBERRY EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 14th day of June, 1909, in the District Court of the United States for the Eastern District of Louisiana, in a prosecution by the United States against H. B. Howell & Company, Limited, a corporation of New Orleans, Louisiana, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Louisiana to Mississippi an adulterated and misbranded strawberry extract, the said H. B. Howell & Company, Limited, entered a plea of guilty and the court imposed upon it a fine of $10.

The facts in the case were as follows:

On April 9, 1908, an inspector of the Department of Agriculture purchased from the Hartman Mercantile Company, Brookhaven, Mississippi, a sample (I. S. No. 2161–a) of a food product labeled: (On carton) "Hoyt's Strawberry Flavor composed of the delicate flavor of the fruit," (on front of bottle) "Pure and Concentrated Extract of Strawberry," (on back of bottle) "This preparation artificially colored, contains 7½ grains amyl acetate to the fluid ounce. Guaranteed, etc. Serial No. 198." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Specific gravity (15.5° C.)	0.9786
Alcohol by volume (per cent)	41.30
Esters as amyl acetate (per cent)	1.72
Solids (grams per 100 cc.)	13.31
Color	Coal tar dye.

A flavoring extract, as recognized by reliable manufacturers and dealers, is a solution in ethyl alcohol of proper strength of the sapid and odorous principles derived from an aromatic plant, or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation. The analysis of the aforesaid sample disclosed practically the total absence of the sapid and odorous principles of the strawberry, hence the article was adulterated within the meaning of section 7 of the act in that an imitation extract, artificially colored in a manner whereby its inferiority was concealed, was substituted wholly for the strawberry extract which it purported to be, and was misbranded within the meaning of section 8 of the act in that it was labeled (on carton) "Hoyt's Strawberry Flavor composed of the delicate flavor of the fruit," (on bottle) "Pure and Concentrated Extract of Strawberry," which statements were false, misleading, and deceptive because it was not an extract of strawberry, but merely an imitation extract.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to the Hartman Mercantile Company, the dealers from whom the sample was purchased, and also to H. B. Howell & Company, Limited, the manufacturer and shipper, and gave them an opportunity to be heard. H. B. Howell & Company, Limited, being the party solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis and it being determined that the article was adulterated and misbranded, on February 27, 1909, the said Secretary reported the facts and evidence (F. & D. No. 484) to the Attorney General by whom they were referred to the United States Attorney for the Eastern District of Louisiana who filed an information against H. B. Howell & Company, Limited, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 10, 1910.

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I. S. No. 16742-a.
F. & D. No. 981.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 144, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG PREPARATION.

(DR. FAHRNEY'S TEETHING SYRUP.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 27th day of November, 1909, in the district court of the United States for the district of Maryland, in a prosecution by the United States against D. Fahrney, trading as D. Fahrney and Son, of Hagerstown, Maryland, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Maryland to Virginia of a misbranded drug preparation—that is to say, a preparation labeled and branded "Dr. Fahrney's Teething Syrup," the said defendant having entered a plea of guilty, the court imposed upon him a fine of $100.

The facts in the case were as follows:

On May 25, 1909, an inspector of the Department of Agriculture purchased from Cooper Brothers, Winchester, Virginia, samples of a drug preparation labeled:

"Dr. Fahrney's Teething Syrup. Each ounce contains alcohol 9%, morphine 1.7 gr., chloroform 2.3 M. Drs. D. Fahrney and Son, Hagerstown, Md. Teething Syrup was originated and is made only by us. It contains seven articles besides those given below, and is the best remedy for teething, cholera infantum, indigestion, irregular bowels, sleeplessness, diarrhea, dysentery, etc., Guaranteed under Food and Drugs Act, June 30, 1906, Serial No. 971."

The following statements appear in the label on the carton containing the bottle:

"A sure remedy for all ailments incident to babes from one day old to two or three years. Especially such troubles as wind colic, griping in bowels, diarrhea, difficult teething, disordered stomach, nervous peevishness, restlessness, lack of sleep, and general liver and kidney troubles, and if used in time

will prevent cholera infantum. Contains nothing injurious to the youngest babe, and if given in proper doses will always relieve."

"Mothers need not fear giving this medicine to the youngest babe, as no bad results come from the continued use of it. Many children have taken two or three dozen bottles and today are hale and hearty."

The goods had been shipped to said dealer on or about July 13, 1908, by the manufacturer, D. Fahrney and Son, Hagerstown, Maryland. A sample of the preparation was subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture and was found to contain alcohol 8.84 per cent by volume, chloroform, 0.408 minim per fluid ounce, morphine 0.126 grain per fluid ounce.

It was evident that the preparation was misbranded in violation of section 8 of the act because the statements "Is the best remedy for teething," "A sure remedy for all ailments incident to babes from one day old to two or three years," "Contains nothing injurious to the youngest babe," and "No bad results from the continued use of it," were false, deceptive and misleading, as it was not the best remedy for teething, was not a sure remedy for all ailments incident to babies, does contain injurious ingredients, viz., alcohol, chloroform, and morphine, and because bad results do follow from the continued use of it.

The Secretary of Agriculture, on September 7, 1909, caused the manufacturer to be notified of the above charges and appointed him an opportunity to be heard thereon, and after a hearing, at which said manufacturer was represented, it appearing that there had been a violation of said act, the facts were reported to the Attorney General on October 26, 1909, and by him certified to the United States Attorney for the District of Maryland, who filed an information against the said D. Fahrney, with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 13, 1910.

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S. No. 289.
F. & D. No. 802

Issued February 2, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 145, FOOD AND DRUGS ACT.

ADULTERATION OF SEEDLESS RAISINS.

In accordance with the provisions of Section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the Act, notice is given that on the 20th day of August, 1909, in the Supreme Court of the District of Columbia, holding a District Court of the United States, a judgment was entered in the below entitled case, wherein a libel was filed under section 10 of the aforesaid Act, alleging in substance: That 150 boxes of a product labeled "California Seedless Raisins, Packed by the Malaga Packing Company, Fresno County, Calif." which had been shipped in interstate commerce to the Connecticut Pie Company at Washington, D. C., and found in its possession, were adulterated in that the same were in a filthy, decomposed condition, and infested with worms and other animal matter by reason of which they were unfit for human consumption.

The libel prayed process against all claimants to said raisins and seizure and condemnation of the same.

The said Connecticut Pie Company appeared as claimant and made answer to the libel, admitting the allegation of adulteration, whereupon the Court entered a decree in substance and form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA. HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA, *Libelant*, *vs.* ONE HUNDRED AND FIFTY BOXES OF SEEDLESS raisins.	District No. 837.

JUDGMENT OF CONDEMNATION.

Upon consideration of the libel and answer filed herein, from which it appears that the one hundred and fifty boxes of seedless raisins seized by the marshal, are adulterated as charged in the libel herein, within the meaning and in

violation of section seven, paragraph six, of the Act of Congress approved June 30, 1906.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED: That the said one hundred and fifty boxes of seedless raisins are adulterated within the meaning of the Act of Congress approved June 30, 1906, as charged in said libel.

AND IT IS FURTHER ORDERED: That the said one hundred and fifty boxes of seedless raisins be, and they are hereby, condemned, and that they shall be destroyed by the said marshal in accordance with the provisions of the said Act of Congress approved June 30, 1906.

AND IT IS FURTHER ORDERED: That the respondent shall pay all the costs of this proceeding.

The facts which led to the filing of the libel were as follows:

An inspector of the United States Department of Agriculture found on the premises of the Connecticut Pie Company, at the corner of Wisconsin avenue and O streets, Washington, D. C., 150 boxes of infested seedless raisins, labeled as above described, samples of which were examined and found to be in a filthy, decomposed condition, and infested with worms and other animal matter. This fact was reported by the Secretary of Agriculture to the United States Attorney for the District of Columbia, who filed the above libel for seizure and condemnation of the said raisins, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

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Issued February 2, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 146, FOOD AND DRUGS ACT.

THE ADULTERATION OF RAISINS.

In accordance with the provisions of Section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the Rules and Regulations for the enforcement of the Act, notice is given that on the 18th day of November, 1909, a judgment was entered in the below entitled case in the Supreme Court of the District of Columbia holding a District Court of the United States upon a libel filed under Section 10 of the aforesaid Act, alleging, in substance:

That seven boxes, more or less, of a product labeled "California Seedless Muscatel Raisins Packed by Rosenberg Bros. & Co., California," found on the premises and in the possession of one John C. Berg, at No. 2315 L street NW., in the City of Washington, District of Columbia, were adulterated in that they were infested with worms and other animal matter, and so contaminated by the presence thereof as to be unfit for human consumption; and further charging that said raisins were being manufactured in food products and offered for sale in the District of Columbia after having been so prepared by the said John C. Berg.

The libel prayed process against all claimants to the property therein described and judgment of condemnation of the same. No claimant having appeared to make answer to said allegations, the Court rendered its decree, in substance and form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA, *Libelant*,
vs.
SEVEN BOXES, MORE OR LESS, OF SEEDLESS RAISINS } District No. 848.

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein on the 27th day of September, A. D. 1909, the marshal of the United

States for the District of Columbia has seized four boxes of seedless raisins, and it further appearing that the said seedless raisins were found in the possession of John C. Berg, in the District of Columbia, and that said John C. Berg was offering said seedless raisins for sale in said District, and that a copy of the writ was duly served upon the said John C. Berg by the United States marshal, and a copy of the same duly affixed to the court-house door, and that the time for filing the response or answer to the libel herein has expired, and that no response or answer having been filed to the said libel, and no objection being signified to the Court, and it further appearing that the said boxes of seedless raisins are infested with worms and other animal matter, and are so contaminated by the presence of the said worms and other animal matter that the said seedless raisins are unfit for human consumption.

IT IS BY THE COURT, this 18th day of November, A. D. 1909,

ADJUDGED, ORDERED AND DECREED: That the said four boxes of seedless raisins in the custody of the United States marshal are adulterated within the meaning of the Act of Congress approved June 30, 1906.

IT IS FURTHER ORDERED: That the said seedless raisins be and they are hereby condemned, and they shall be destroyed by the said United States marshal, in such manner as is provided by the said Act of Congress approved June 30, 1906.

IT IS FURTHER ORDERED: That the said John C. Berg pay all the costs of these proceedings.

BY THE COURT.

WENDELL P. STAFFORD, *Justice.*

Prior to the filing of the above libel, an inspector of the Department of Agriculture called at the place of business of the said John C. Berg, 2315 L street NW., Washington, D. C., and obtained a sample of the above product, which was subjected to an examination in the Bureau of Chemistry of the Department of Agriculture. The examination disclosed the fact that the product was adulterated in the particulars before stated; whereupon the Secretary of Agriculture reported this fact to the United States attorney for the District of Columbia, who filed the above libel with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 10, 1910.

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I. S. No. 2094.
F. & D. No. 133. Issued February 2, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 147, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF LEMON EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906 and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 10th day of November, 1908, in the District Court of the United States for the Eastern District of Virginia, in a prosecution by the United States against the Suffolk Drug and Extract Company, a corporation of Suffolk, Va., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Virginia to North Carolina an adulterated and misbranded lemon extract, the said Suffolk Drug and Extract Company entered a plea of guilty and the court imposed upon it a fine of $25.

The facts in the case were as follows:

On August 24, 1907, an inspector of the Department of Agriculture purchased from J. J. Medford, Oxford, North Carolina, a sample (I. S. No. 2094) of a food product labeled: "Purl Brand Extract Lemon. Artificial coloring. Manufactured by Suffolk Drug & Extract Co., Inc., Suffolk, Va." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Alcohol by volume (per cent)	44.00
Lemon oil (per cent)	.18
Citral	.02
Solids	.10

Color: artificial color declared.

Lemon extract, or flavor, as recognized by reliable manufacturers and dealers, is the flavoring extract prepared from oil of lemon, or from lemon peel, or both, and contains not less than five per cent by

volume of oil of lemon. The analysis of the aforesaid sample disclosed that there was only .18 per cent of oil of lemon in this article, hence it was adulterated within the meaning of section 7 of the act in that an inferior extract, artificially colored in a manner whereby its inferiority was concealed, was substituted wholly for the genuine article which it purported to be, and was misbranded within the meaning of section 8 of the act in that it was labeled "Extract Lemon," which statement was false, misleading, and deceptive because it was not lemon extract, but a very poor imitation thereof.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to J. J. Medford, the dealer from whom the sample was procured, and also to the Suffolk Drug and Extract Company, the manufacturer and shipper, and gave them an opportunity to be heard. The said company being the party solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on July 2, 1908 the said Secretary reported the facts and evidence (F. & D. No. 133) to the Attorney General by whom they were referred to the United States Attorney for the Eastern District of Virginia who presented the facts to the grand jury by whom an indictment was duly returned against the said Suffolk Drug and Extract Company with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

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I. S. No. 1441.
F. & D. No. 122.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 148, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VANILLA EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 28th day May, 1909, in the District Court of the United States for the Western Division of the Western District of Missouri, in a prosecution by the United States against the Ennis, Hanly, Blackburn Coffee Company, a corporation of Kansas City, Missouri, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Missouri to Kansas an adulterated and misbranded vanilla extract, the said Ennis, Hanly, Blackburn Coffee Company entered a plea of guilty and the court imposed upon it a fine of $25.

The facts in the case were as follows:

On August 5, 1907, an inspector of the Department of Agriculture purchased from Peake Brothers, Kansas City, Kansas, a sample (I. S. No. 1441) of a food product labeled: "Standard Brand Vanilla, Substitute Flavor, vanilline and cumarin colored." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Vanillin (per cent)	0.12
Melting point (°C)	78
Coumarin (per cent)	0.16
Melting point (°C)	67
Resins	Trace.
Lead precipitate	Scant.
Caramel	Present.
Natural color	Trace.

Vanilla extract, or flavor, as recognized by reliable manufacturers and dealers, is the flavoring extract prepared from vanilla bean, and

contains in 100 cubic centimeters the soluble matters from not less than 10 grams of the vanilla bean. The analysis of the aforesaid sample disclosed practically the total absence of the extract of the vanilla bean, hence the article was adulterated within the meaning of section 7 of the act in that an imitation extract, artificially colored in a manner whereby its inferiority was concealed, was substituted wholly for the product which it purported to be, and was misbranded within the meaning of section 8 of the act in that it was labeled "Standard Vanilla" in conspicuous type, which statement was false, misleading, and deceptive because it contained no extract of vanilla bean.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to Peake Brothers, the dealers from whom the sample was procured, and also to the Ennis, Hanly, Blackburn Coffee Company, the manufacturer and shipper, and gave them an opportunity to be heard. The said company being the party solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis and it being determined that the article was adulterated and misbranded, on June 22, 1908, the said Secretary reported the facts and evidence (F. & D. No. 122) to the Attorney General by whom they were referred to the United States Attorney for the Western District of Missouri who filed an information against the Ennis, Hanly, Blackburn Coffee Company with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

O

I. S. Nos. 8016 & 8026.
F. & D. Nos. 131 & 132.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 149, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF LEMON EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 16th day of December, 1908, in the District Court of the United States for the Northern District of Illinois, in prosecutions by the United States against the Thomson & Taylor Spice Company, a corporation of Chicago, Illinois, for two violations of section 2 of the aforesaid act in shipping and delivering for shipment from Illinois to Missouri an adulterated and misbranded lemon extract, the said Thomson & Taylor Spice Company entered pleas of guilty and the court imposed upon it a fine of $100 in each case.

The facts in the cases were as follows:

On August 22 and August 23, 1907, an inspector of the Department of Agriculture purchased from the Kansas City Wholesale Grocery Company and the Ryley-Wilson Grocer Company, respectively, both of Kansas City, Missouri, samples (I. S. Nos. 8016 and 8026) of a food product labeled, respectively: "American Beauty Lemon Flavor. Made from oil of lemon and grain spirits only. Manufactured for Kansas City Wholesale Grocery Co., Kansas City, Mo.," and "Standard Lemon Flavor—Colored. Made from oil of lemon and grain spirits only. Manufactured for Ryley-Wilson Grocer Co., Kansas City, Mo." These samples were analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

I. S. No. 8016:	
Lemon oil	0.0
Citral	Trace.
I. S. No. 8026:	
Lemon oil	Absent.
Aniline dye	Absent.
Turmeric	Absent.
Citral	Trace.

Lemon extract, or flavor; as recognized by reliable manufacturers and dealers, is the flavoring extract prepared from oil of lemon, or from lemon peel, or both, and contains not less than five per cent by volume of oil of lemon. The analyses of the aforesaid samples disclosed practically the total absence of oil of lemon, hence the articles were adulterated within the meaning of section 7 of the act in that an imitation extract was substituted wholly for the genuine article which it purported to be, and were misbranded within the meaning of section 8 of the act in that they were labeled "American Beauty Lemon Flavor. Made from oil of lemon and grain spirits only" and "Standard Lemon Flavor. Made from oil of lemon and grain spirits only," which statements were false, misleading, and deceptive because, as heretofore stated, there was no oil of lemon contained therein.

It appearing from the aforesaid analyses that the articles were adulterated and misbranded, the Secretary of Agriculture gave notice to the Kansas City Wholesale Grocery Company and to the Ryley-Wilson Grocer Company, the dealers from whom the samples were procured, and also to the Thomson & Taylor Spice Company, the manufacturer and shipper, and gave them an opportunity to be heard. The Thomson & Taylor Spice Company being the party solely responsible for the adulteration and misbranding of the articles and failing to show any fault or error in the results of the aforesaid analyses and it being determined that the articles were adulterated and misbranded, on June 26 and June 27, 1908, respectively, the said Secretary reported the facts and evidence (F. & D. Nos. 131 and 132) to the Attorney General by whom they were referred to the United States Attorney for the Northern District of Illinois who filed informations against the Thomson & Taylor Spice Company with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

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I. S. No. 1409.
F. & D. No. 191.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 150, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF TERPENELESS LEMON EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 26th day of April, 1909, in the District Court of the United States for the Western Division of the Western District of Missouri, in a prosecution by the United States against Charles Spies and V. M. Seiter, doing business under the firm name and style of Chas. Spies & Company, of Kansas City, Missouri, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Missouri to Kansas an adulterated and misbranded terpeneless lemon extract, the said Chas. Spies & Company entered a plea of guilty and the court imposed upon them a fine of $25.

The facts in the case were as follows:

On July 30, 1907, an inspector of the Department of Agriculture purchased from R. L. Goddard, Kansas City, Kansas, a sample (I. S. No. 1409) of a food product labeled: "Terpeneless Lemon Brand Superior Quality Extract, Blanke-Baer Chemical Co. St. Louis." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Lemon oil	Absent.
Citral	Trace.
Solids (per cent)	.04

Terpeneless lemon extract, or flavor, as recognized by reliable manufacturers and dealers, is the flavoring extract prepared by shaking oil of lemon with dilute alcohol, or by dissolving terpeneless oil of lemon in dilute alcohol, and contains not less than two-tenths per cent by weight of citral derived from oil of lemon. The analysis of

the aforesaid sample disclosed practically the total absence of citral, hence the product was adulterated within the meaning of section 7 of the act in that an inferior extract was substituted wholly for the genuine product which it purported to be, and was misbranded within the meaning of section 8 of the act in that it was labeled "Terpeneless Lemon Extract," which statement was false, misleading, and deceptive because it was not terpeneless lemon extract, but an inferior product with a percentage of citral so small that it could not be accurately determined.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to R. L. Goddard, the dealer from whom the sample was purchased, and also to Chas. Spies & Company, the shipper, and the Blanke-Baer Chemical Company, the manufacturer, and gave them an opportunity to be heard. Chas. Spies & Company being the parties solely responsible for the interstate shipment of the adulterated and misbranded article and failing to show any fault or error in the result of the aforesaid analysis and it being determined that the article was adulterated and misbranded, on October 5, 1908, the said Secretary reported the facts and evidence (F. & D. No. 191) to the Attorney General by whom they were referred to the United States Attorney for the Western District of Missouri who filed an information against Chas. Spies & Company with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

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I. S. No. 1147.
F. & D. No. 298.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 151, FOOD AND DRUGS ACT.

ADULTERATION OF VANILLA EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906 and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of May, 1909, in the District Court of the United States for the Western District of New York, in a prosecution by the United States against the Monroe Pharmacal Company, a corporation of Rochester, New York, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from New York to Massachusetts an adulterated vanilla extract, the said Monroe Pharmacal Company entered a plea of guilty and the court suspended sentence.

The facts in the case were as follows:

On September 6, 1907, an inspector of the Department of Agriculture purchased from Charles A. Gay, Greenfield, Massachusetts, a sample (I. S. No. 1147) of a food product labeled: "Monroe Brand Concentrated Extract of Vanilla for flavoring Ice Cream, Jellies, Pastry, etc., Manufactured by Monroe Pharmacal Co., Rochester, N. Y.", and on the back of the bottle was a sticker containing: "Extract vanilla beans (Mex.) .8155%; Syrup (sugar) .09137; Cologne spirit .0956." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Resins	Absent.
Organic acids, gums and extractive matters	Small amount.
Vanillin (per cent)	0.12
Coumarin	Absent.
Caramel	Present.
Natural color	Trace.

Vanilla extract, or flavor, as recognized by reliable manufacturers and dealers, is the flavoring extract prepared from vanilla bean, and contains in 100 cubic centimeters the soluble matters from not less than

10 grams of the vanilla bean. The analysis of the aforesaid sample disclosed practically the total absence of the soluble matters of the vanilla bean, hence the article was adulterated within the meaning of section 7 of the act in that an imitation extract, artificially colored in a manner whereby its inferiority was concealed, was substituted wholly for the vanilla extract which it purported to be.

It appearing from the aforesaid analysis that the article was adulterated, the Secretary of Agriculture gave notice to Charles A. Gay, the dealer from whom the sample was purchased, and also to the Monroe Pharmacal Company, the manufacturer and shipper and gave them an opportunity to be heard. The said company being the party solely responsible for the adulteration of the article and failing to show any fault or error in the result of the aforesaid analysis and it being determined that the article was adulterated, on December 30, 1908 the said Secretary reported the facts and evidence (F. & D. No. 298) to the Attorney General by whom they were referred to the United States Attorney for the Western District of New York who presented the facts to the grand jury by whom an indictment was duly returned against the said Monroe Pharmacal Company with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

O

I. S. Nos. 5051 and 2126-a.
F. & D. Nos. 306 and 486. Issued February 2, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 152, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF PINEAPPLE AND LEMON EXTRACTS.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on June 8, 1909, in the District Court of the United States for the Southern Division of the Southern District of Alabama, in a prosecution by the United States against the Mobile Drug Company, a corporation of Mobile, Alabama, for two violations of section 2 of the aforesaid act in shipping and delivering for shipment from Alabama to Mississippi adulterated and misbranded pineapple and lemon extracts, the said Mobile Drug Company entered a plea of guilty and the court imposed upon it a fine of $25.

The facts in the cases were as follows:

On February 22, 1908, and March 13, 1908, an inspector of the Department of Agriculture purchased from Mrs. Sophia Fields, Escatawpa, Mississippi, and R. W. Fagan & Company, Waynesboro, Mississippi, respectively, samples (I. S. Nos. 5051 and 2126-a) of food products labeled, respectively: "Pure Concentrated Extract of Pineapple for flavoring Ice Cream, Custards, Jellies, Pastry, etc. Mobile Drug Co., Mobile, Ala.," and "Concentrated Extract of Lemon. Guaranteed ------ June 30, 1906. Serial No. 6901. Mobile Drug Co., Mobile, Ala." The samples were analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

I. S. No. 5051:	
Specific gravity	0.9447
Alcohol by volume (per cent)	45.40
Esters as ethyl butyrate (gms. per 100 cc)	0.696
Coloring matter	Tumeric.
I. S. No. 2126-a:	
Specific gravity (15.5° C.)	.8748
Alcohol by volume (per cent)	73.28
Solids (grs. per 100 cc)	0.21
Lemon oil by polarization (per cent)	3.22
Lemon oil by precipitation (per cent)	3.30
Color	Tumeric.

A flavoring extract, as recognized by reliable manufacturers and dealers, is a solution in ethyl alcohol of proper strength of the sapid

and odorous principles derived from an aromatic plant, or parts of the plant, with or without its coloring matter, and conforms in name to the plant used in its preparation; and lemon extract, or flavor, as recognized by reliable manufacturers and dealers, is the flavoring extract prepared from oil of lemon, or from lemon peel, or both, and contains not less than five per cent by volume of oil of lemon. The analysis of sample I. S. No. 5051 disclosed practically the total absence of the sapid and odorous principles of the pineapple, hence the article was adulterated within the meaning of section 7 of the act in that an imitation extract, artificially colored in a manner whereby its inferiority was concealed, was substituted wholly for the pineapple extract which it purported to be, and was misbranded within the meaning of section 8 of the act in that it was labeled "Pure Concentrated Extract of Pineapple," which statement was false, misleading, and deceptive because it was not an extract of pineapple, but merely an imitation extract. The analysis of sample I. S. No. 2126–a disclosed the fact that it contained only 3.3 per cent of oil of lemon and was artificially colored, hence the article was adulterated within the meaning of section 7 of the act in that an inferior extract, artificially colored in a manner whereby its inferiority was concealed, was substituted wholly for the genuine product which it purported to be, and was misbranded within the meaning of section 8 of the act in that it was labeled "Concentrated Extract of Lemon," which statement was false, misleading, and deceptive because it was not concentrated extract of lemon, but an inferior grade lemon extract, artificially colored in a manner whereby its inferiority was concealed.

It appearing from the aforesaid analyses that the articles were adulterated and misbranded, the Secretary of Agriculture gave notice to Mrs. Sophia Fields and R. W. Fagan & Company, the dealers from whom the samples were purchased, and also to the Mobile Drug Company, the manufacturer and shipper, and gave them an opportunity to be heard. The Mobile Drug Company being the party solely responsible for the adulteration and misbranding of the articles and failing to show any fault or error in the results of the aforesaid analyses and it being determined that the articles were adulterated and misbranded, on January 6, 1909, and February 27, 1909, respectively, the said Secretary reported the facts and evidence (F. & D. Nos. 306 and 486) to the Attorney General by whom they were referred to the United States Attorney for the Southern District of Alabama who filed an information against the Mobile Drug Company with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 153, FOOD AND DRUGS ACT.

ADULTERATION OF PEACHES.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 24th day of August, 1909, in the Supreme Court of the District of Columbia, holding a District Court of the United States, a judgment was entered in the below entitled case, upon a libel filed under section 10 of the aforesaid act, alleging in substance:

That 35 boxes of evaporated peaches labeled "Le Rioux Peaches," found on the premises of Henry P. Kern, 1115 D street, N. E., Washington, D. C., in original and unbroken packages, were adulterated within the meaning of section 7 of the act in that they were in a filthy and decomposed condition, covered with mold, infested with worms, and unfit for human consumption. Said libel prayed process against all claimants to said peaches, and seizure and condemnation of the same.

The aforesaid Henry P. Kern appeared as claimant of the peaches and filed his answer, admitting the allegations of the libel and joining in the prayer of the libellant for a judgment of condemnation of said peaches, whereupon the court rendered its decree in substance and form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA, *Libellant*,
vs
THIRTY-FIVE BOXES OF LE RIOUX PEACHES,
} District No. 838.

JUDGMENT OF CONDEMNATION.

It appearing to the Court that Henry P. Kern, the owner of the goods seized herein, has appeared in proper person and answered said libel, admitting that

the said goods are adulterated as alleged therein, and consenting to the immediate judgment of condemnation thereof and that the same may be destroyed in such manner as may be provided by order of this Court, it is, this 24th day of August A. D. 1909,

ADJUDGED, ORDERED AND DECREED: that the said articles so seized in this cause be and they are hereby declared to be adulterated in violation of the Act of Congress approved June 30, 1906, as set forth in said libel.

IT IS FURTHER ORDERED that the said thirty-five boxes, more or less, of said peaches, so seized, be and they are hereby ordered to be condemned and destroyed by the Marshal breaking open each of said boxes and scattering the contents thereof and delivering same to the garbage contractor for the District of Columbia, and that they then be destroyed in the same manner as other garbage collected for the said District, and that the said Marshal make his return to this Court showing that the order has been carried out in full.

IT IS FURTHER ORDERED that the said Henry P. Kern, owner of said articles, pay all costs of these proceedings.

The facts in the case were as follows:

On or about August 21, 1909, an inspector of the Department of Agriculture found in the possession of Henry P. Kern, at No. 1115 D Street, N. E., Washington, D. C., 35 boxes of peaches, each box containing 50 pounds, labeled "Le Rioux Peaches." These goods had been purchased by said Kern from the firm of Miller, Clagett Company, Washington, D. C., and were intended for use in the manufacture of pies. A sample of the peaches was collected by the inspector and submitted to the Bureau of Chemistry for examination, where it was found to be filthy, decomposed, mold covered, and infested with worms and unfit for human consumption. On August 21, 1909, the facts were reported by the Secretary of Agriculture to the United States Attorney for the District of Columbia and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

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Issued February 10, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 154, FOOD AND DRUGS ACT.

MISBRANDING OF CHEESE.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 28th day of December, 1908, a judgment was entered in the District Court of the United States for the Eastern District of Pennsylvania, upon a libel filed under section 10 of the aforesaid act, alleging in substance: That 375 boxes of a product labeled "English Dairy Cheese Our Dandy Full Cream. Githens, Rexsamer & Co., Philadelphia," which had been shipped from Bridgewater, New York, to Philadelphia, Pennsylvania, were misbranded within the meaning of section 8 of the act in the following particulars, viz: The label represents the article to be an English product when in fact it is a domestic one, and to be made wholly of cream, whereas it was made wholly or in part of milk.

The libel prayed process against the claimants to said alleged misbranded goods and seizure and condemnation of same. An answer to the libel was filed by Githens, Rexsamer & Company, consenting to the prayers thereof and to the passage of the decree herein, which is in substance and form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF PENNSYLVANIA.

UNITED STATES OF AMERICA, *Libellant.*

v.

375 PACKAGES CHEESE, LATE IN THE POSSESSION OF Githens, Rexsamer & Co.

No. 6 of 1908.

INFORMATIONS FOR FORFEITURE.

And now, to wit: This 28th day of December, A. D. 1908, on motion of J. Whitaker Thompson, United States Attorney in and for the Eastern District of

Pennsylvania, and attorney for the libellant herein, and it appearing to the Court that upon the libel filed herein on December 5, 1908, the above named defendant was cited to appear on December 25, 1908, and a warrant of attachment was duly issued and served and that by virtue of said warrant, the Marshal has seized three hundred and seventy-five packages of cheese referred to in the said libel labelled and branded "English Dairy Cheese, Our Dandy Full Cream, Githens, Rexsamer & Co., Philadelphia" having been in the possession of Benjamin and Augustus D. Githens, Charles Y. Fox and George G. Sanborne, trading as Githens, Rexsamer & Co., and now stored in the custody of the said Marshal and that the said Githens, Rexsamer & Co. have, under date of December 23, 1908, filed an Answer to said libel consenting to the prayer thereof and agreeing to the said condemnation, it is on this ——— day of December, 1908

Ordered, Adjudged and decreed that said three hundred and seventy-five packages of cheese, labelled and branded "English Dairy Cheese, Our Dandy Full Cream, Githens, Rexsamer & Co., Philadelphia" be and they are hereby declared to be misbranded in violation of the act of June 30, 1906, as charged in the said libel.

And it is further ordered That the said three hundred and seventy-five packages of cheese be and the same are hereby condemned and ordered to be disposed of by sale as prayed for in the said libel and provided for in the said Act of June 30, 1906,

And it is further ordered, That the proceeds of said sale less the legal costs and charges shall be paid into the Treasury of the United States,

Provided, however, That upon the payment of all of the costs of the proceedings herein, and the execution and delivery by the said Benjamin and Augustus D. Githens, Charles Y. Fox and George G. Sanborne, doing business under the firm name and style of Githens, Rexsamer & Co., to the libellant of a good and sufficient bond in the penalty of one thousand dollars ($1,000), conditioned that the said three hundred and seventy-five packages of cheese labelled "English Dairy Cheese, Our Dandy Full Cream, Githens, Rexsamer & Co., Philadelphia" as aforesaid shall not be sold or otherwise disposed of contrary to the provisions of said Act of June 30, 1906, the said Marshall shall redeliver the said three hundred and seventy-five packages of cheese labelled "English Dairy Cheese, Our Dandy Full Cream, Githens, Rexsamer & Co., Philadelphia" as aforesaid to the said Githens, Rexsamer & Co., in lieu of disposing of the said cheese by sale as aforesaid, the said costs to be paid and the said bond to be filed herein, if at all, within thirty days from the date of this Order.

The facts in the case were as follows:

On or about December 3, 1908, an inspector of the Department of Agriculture found in the possession of Githens, Rexsamer & Co., Philadelphia, Pa., 375 boxes of cheese labeled as above, which had been shipped by the Phenix Cheese Co. from Bridgewater, N. Y., on November 28, 1908. A sample of this cheese was subjected to analysis in the Bureau of Chemistry, United States Department of Agriculture, and found to have been made from milk and not from cream, and information had been obtained which showed that the cheese was not manufactured in England, but in Bridgewater, N. Y., by the Phenix Cheese Co. The goods were therefore misbranded within the meaning of section 8, paragraphs 2 and 4 covering such instances of

misbranding as alleged in this case, viz., the labelling of the article so that it purports to be a foreign product when not so; and the presence on the label of the false and misleading statements before quoted, regarding the ingredients and substances contained in said boxes. On December 4, 1908, the facts were reported to the United States Attorney for the Eastern District of Pennsylvania and the above mentioned libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 10, 1910.

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Issued February 10, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 155, FOOD AND DRUGS ACT.

MISBRANDING OF BAKING POWDER.

(UNDER WEIGHT.)

In accordance with the provisions of Section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the rules and regulations for the enforcement of the Act, notice is given that on the 3rd day of April, 1909, in the District Court of the United States for the Northern District of Florida, in a proceeding of libel under Section 10 of the aforesaid act, for the seizure and condemnation of a misbranded food product, that is to say, 720 cases of baking powder labeled and branded as containing "50 one-pound Full Weight," whereas the average weight of each can contained in the said cases was 14.9 ounces, which had been shipped by the Continental Baking Powder Company from Nashville, Tenn., to the Consolidated Grocery Company, a corporation of Pensacola, Fla., no claimant having appeared to make answer to the allegations of misbranding contained in said libel, the court rendered a *pro confesso* decree, in favor of the libellant for the forfeiture and condemnation of said product, which decree was in due course made final by said court. The decree is in substance and form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, NORTHERN DISTRICT OF FLORIDA.

"UNITED STATES OF AMERICA, *Libellant*,

vs.

SEVEN HUNDRED AND TWENTY (720) cans of Baking Powder.

"This cause coming on to be heard upon application of the United States for a final decree herein; it appearing to the Court that due and legal service was made in said proceeding; and it further appearing to the Court that a decree pro confesso was duly and legally entered herein according to the course

of practice in admiralty and maritime causes; upon consideration thereof the court being advised of its opinion;

"It is ordered, adjudged and decreed that the allegations of the libel herein be taken as confessed; that is to say, that on the 26th day of September, 1907, and the 27th day of November, 1907, the Continental Baking Powder Company of Nashville, Tennessee, shipped in the aggregate seven hundred and twenty cases (720) of baking powder from Nashville, Tennessee, to Pensacola, Florida, consigned to the Consolidated Grocery Company, at Pensacola, Florida, the said shipment coming from Nashville, Tennessee, to Pensacola, Florida, over the Louisville & Nashville Railroad Company's lines; that said baking powder is labeled on the shipping cases thereof as follows, to-wit:—"50 1 LB Full Weight Grade H. I. LO, Low Price Baking Powder Pure Continental Baking Powder Co., Nashville, Tenn. Pure Food Guaranteed Serial Number 7950."

"The said Baking Powder is misbranded within the meaning of the Food & Drugs Act of June 30, 1906, in that it is labeled and branded as aforesaid in a manner to indicate that the cans contain one (1) pound of baking powder, when in truth and in fact the average net weight of a unit package is only 14.9 ounces, being an average shortage of 1.1 ounces per can.

"Wherefore it is ordered and decreed by the Court that the United States Marshal shall label and brand said boxes containing said cans of baking powder; representing that said cans contain 14.9 ounces of baking powder; that the said Marshal thereupon shall advertise and sell said baking powder, as provided by law and shall, out of the proceeds of said sale, pay the costs incurred in this action and pay the remainder, if any, into the Treasury of the United States, as provided in Section 10 of said Act of Congress; provided, however, that the said Consolidated Grocery Company, upon the payment of the costs of this libel and the execution of a good and sufficient bond in the sum of Fifteen Hundred (1500) Dollars, conditioned that the said Consolidated Grocery Company shall label said goods in accordance with the judgment of the Court, as herein expressed; and further conditioned that they will not sell or dispose of said baking powder in violation of the laws of the United States or the laws of any State or Territory, shall have the right to the possession of said baking powder now in the possession of the said United States Marshal, and the said United States Marshal is hereby directed to deliver said baking powder to the said Consolidated Grocery Company or its authorized agent upon the execution and delivery of the aforesaid bond, and the payment of the aforesaid costs within twenty (20) days from this date.

"Done, ordered and decreed in Chambers at Pensacola, Florida, this 3rd day of April, A. D. 1909.

WILLIAM B. SHEPPARD,
Judge."

The facts in the case were as follows:

On or about February 27, 1909, an inspector of the Department of Agriculture found in the possession of the Consolidated Grocery Company, Pensacola, Fla., 720 cases of baking powder labeled and branded "50 one-pound Full Weight High Grade Hi Lo Low Price Baking Powder Pure, Continental Baking Powder Co., Nashville, Tenn." which had been shipped by the Continental Baking Powder Company from Nashville, Tenn., to the said consignee, on September 24, and November 26, 1907. A number of cans were weighed in the Bureau of Chemistry, United States Department of Agriculture, and

the average net weight found to be 14.9 ounces, showing a shortage of 1.1 ounces or 7 percent. The goods were, therefore, misbranded within the meaning of section 8, Paragraph 3, of the Act, which provides as follows:

"That an article * * * shall be deemed to be misbranded * * * if, in package form, and the contents are stated in terms of weight or measure, they are not plainly and correctly stated on the outside of the package,"

and on February 27, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the Northern District of Florida and libel for seizure and condemnation was duly filed, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 10, 1910.

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I. S. No. 10151-a.
F. & D. No. —.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 156, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF TOMATO CATSUP.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906 and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 7th day of October, 1909, in the District Court of the United States for the District of Maryland, in a prosecution by the United States against the S. J. Van Lill Company, a corporation of Baltimore, Maryland, for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Maryland to Massachusetts an adulterated and misbranded tomato catsup, that is to say, catsup labeled and branded "Navy Brand Catsup, prepared with 1/10 of one percent benzoate of sodium. Prepared by S. J. Van Lill, Baltimore, Md., U. S. A." "Notice: This Catsup is superior on account of its Fine Zest and Fine Tomato Flavor." "Made from Choice ripe tomatoes, granulated sugar, and selected high grade spices, grain vinegar", the said S. J. Van Lill Company having entered a plea of guilty, the court imposed upon it a fine of $150.

The facts in the case were as follows:

On September 30, 1908, an inspector of the Department of Agriculture procured a sample of tomato catsup labeled as above, which was part of a consignment of goods shipped on or about September 26, 1908 by the S. J. Van Lill Company, Baltimore, Maryland, to S. J. Van Lill, Lowell, Massachusetts, with instructions to notify Coffey Brothers. This shipment of catsup was seized, condemned, and destroyed by order of the District Court of the United States for the District of Rhode Island in the case of the United States v. 650 Cases of Tomato Catsup, a proceeding of libel for such seizure, condemnation, and forfeiture prosecuted to judgment in said District on March 15, 1909 (Notice of Judgment 79). The sample was analyzed in the Bureau of Chemistry of the United States Department of

Agriculture and found to contain a filthy, decomposed, and putrid vegetable substance and to have been made from tomato pulp screened from peelings and cores.

It was evident that the product was both adulterated and misbranded within the meaning of sections 7 and 8 of the Act; adulterated because it consisted in part of a filthy, decomposed, and putrid vegetable substance; and misbranded because it was labeled "Made from choice ripe tomatoes, granulated sugar, and selected high grade spices, grain vinegar," when in fact the product was made from waste material,—tomato pulp screened from peelings and cores.

The Secretary of Agriculture, on October 3, 1908, notified the manufacturers of the above charges and afforded them an opportunity to be heard thereon; and after said hearing, at which the defendant was represented, it appearing that said act had been violated, as above set forth, the facts were certified by said Secretary to the Attorney General by whom they were referred to the United States Attorney for the District of Maryland who filed an information against the said S. J. Van Lill Company with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 10, 1910.

O

I. S. No. 17210–a
F. & D. No.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 157, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF POWDERED ASAFOETIDA.

In accordance with the provisions of Section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 15th day of July, 1909, a judgment was entered in the District Court of the United States for the Eastern District of Michigan, in a prosecution by the United States against F. A. Thompson and Company, a corporation of Detroit, Michigan, for violation of Section 2 of the aforesaid act, upon an information in substance charging said defendant corporation with having on or about November 18, 1909, shipped and delivered for shipment from Detroit, Michigan, to Chicago, Ill., a consignment of a drug product labeled and branded "Asafoetida," which was adulterated in that it was sold under a name recognized by the United States Pharmacopoeia, but did not comply with the standard prescribed by said United States Pharmacopoeia or National Formulary, nor was the standard of strength, quality or purity of said drug stated upon the container thereof.

Said information further charges that said drug was misbranded in that the label "Asafoetida" was false and misleading and tended to deceive the purchaser thereof by leading said purchaser to believe that a drug complying with the tests for strength, quality and purity laid down in the Pharmacopoeia, was being purchased, whereas in fact, said drug product was mixed with ground nut hulls and did not comply with the said tests. To the above information the said defendant corporation pleaded *Nolo Contendere*, and the court imposed upon it a fine of ten dollars. The facts in the case were as follows:

On November 24, 1908, an inspector of the United States Department of Agriculture purchased a sample of the drug labeled:

"Powdered Asafoetida, Lot 49888,
Guaranteed under F. & D. Act,
Serial No. 296,
F. A. Thompson & Co., Manufacturing Chemists, Detroit, Michigan."

The sample was subjected to analysis by the Bureau of Chemistry, United States Department of Agriculture, and found to contain:

Ash, 19.67%.
Alcohol, insoluble material, 87.12%.
Alcohol, soluble material, 12.87%.
The alcohol insoluble material was found to consist of mineral matter and nut hulls.

According to the tests laid down in United States Pharmacopoeia, said drug should have contained not less than 50 per cent alcohol, soluble material, and not more than 15 per cent ash.

The facts disclosed by the above analysis formed the basis of the charges of adulteration and misbranding, substantially as set out above, whereupon the Secretary of Agriculture, on March 8, 1909, afforded the manufacturers of said drug product an opportunity to show any fault or error in the findings of the analyst, and they having failed to do so, the facts were reported to the Attorney General June 18, 1909, and the case referred to the United States Attorney for the eastern District of Michigan, who filed an information against said F. A. Thompson & Company with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 10, 1910.

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I. S. No. 3396, 3397, and 11260.
F. & D. No. 316, 342, and 118.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 158, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF PEPPERS.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States v. Harry W. Dean, a prosecution by the United States against the said Harry W. Dean in the Circuit Court of the United States for the Southern District of New York, for violations of section 2 of the aforesaid act in the shipment and delivery for shipment from New York to the District of Columbia of an article of food labeled and branded "Black Pepper" which was adulterated and misbranded in this, that it contained approximately 25% of leguminous seed substituted in part for pepper thereby reducing and lowering its quality and strength and was not pure black pepper as the label represented it to be, but was a mixture of pepper and leguminous seed, and in the shipment from New York to the State of Washington of two articles of food labeled and branded, respectively, "Pure White Pepper" and "Pure Black Pepper" which were adulterated and misbranded in this, that they contained approximately 25% of leguminous starch substituted in part for pepper thereby reducing and lowering their quality and strength, and were not pure white pepper and pure black pepper as their labels represented them to be, but were mixtures of said peppers, respectively, and leguminous starch.

The said Harry W. Dean having been arraigned upon an information filed by the United States Attorney alleging the aforesaid offenses and having entered his plea of guilty, on October 4, 1909 the court suspended sentence upon him.

The facts in the cases were as follows:

On August 8, 1907, an inspector of the Department of Agriculture purchased from Hyland Manufacturing Company, Spokane, Wash-

ington, samples (I. S. 3396 and 3397) of pepper contained in packages labeled, respectively, "Pure White Pepper and "Pure Black Pepper." These samples were part of a shipment of peppers made on or about July 23, 1907, to said Hyland Manufacturing Company by W. G. Dean & Son, New York, N. Y. The samples were duly examined in the Bureau of Chemistry of the United States Department of Agriculture and found to contain approximately 25% of leguminous starch, from which it appeared that they were adulterated and misbranded as hereinbefore stated. On December 14, 1907, an inspector of said Department purchased from Manhattan Coffee Mills, Washington, D. C., a sample (I. S. 11260) of pepper contained in a package labeled "Black Pepper." This sample was part of a shipment of pepper made on or about August 21, 1907 to said Manhattan Coffee Mills by W. G. Dean & Son, New York, N. Y. The sample was duly analyzed in the aforesaid Bureau and found to contain approximately 25% of leguminous seed, from which it appeared that it was adulterated and misbranded as hereinbefore stated.

The Secretary of Agriculture gave notice to the Hyland Manufacturing Company and Manhattan Coffee Mills, as well also as to W. G. Dean & Son, and gave them an opportunity to be heard. W. G. Dean & Son being the party responsible for the adulteration and misbranding of the peppers and failing to show any fault or error in the aforesaid examination and it appearing that provisions of the aforesaid act had been violated by W. G. Dean & Son, on June 18, 1908 the Secretary of Agriculture reported to the Attorney General the facts and evidence in respect to the shipment to Manhattan Coffee Mills (F. & D. No. 118) and on January 13 and 21, 1909, the facts and evidence in respect to the shipments to Hyland Manufacturing Company (F. & D. Nos. 316 and 342), which said facts and evidence were duly referred to the United States Attorney for the Southern District of New York who, on March 9, 1909, filed an information against the aforesaid Harry W. Dean with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

O

I. S. No. 1760–a.
F. & D. No. 626.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 159, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF PEPPER.

In accordance with the provisions of Section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the rules and regulations for the enforcement of the Act, notice is given of the judgment of the court in the case of the United States *v.* Parrish Brothers, a corporation of Baltimore, Maryland, a prosecution in the District Court of the United States for the District of Maryland, against said Parrish Brothers under Section 2 of the aforesaid act, for the shipment and delivery for shipment from Maryland to Virginia of an article of food labeled and branded "The Best in Spices. Levering's Brand Pure Spices, Pepper," which was adulterated and misbranded within the meaning of Sections 7 and 8 of the Act, in that pepper shells and extraneous mineral matter had been substituted in part for pepper and mixed with pepper so as to reduce, lower, and injuriously affect its quality and strength, and was not pure pepper as represented by the label, but a mixture of pepper, pepper shells and dirt, which said article of food had been manufactured and prepared by said Parrish Brothers and sold by it to Levering Coffee Co. of Baltimore, Md., under a guaranty provided for by Section 9 of the Act, and shipped as aforesaid by Levering Coffee Co. The United States Attorney for the aforesaid district having, on July 6, 1909, filed an information in said court against Parrish Brothers for the aforesaid offense, and Parrish Brothers having, on said date entered its plea of guilty, the court imposed upon it a fine of $50.

The facts in the case were as follows:

On March 19, 1908, an inspector of the Department of Agriculture purchased from M. J. Gately, Fredericksburg, Va., a sample of an article of food (I. S. 1760–a) labeled and branded "The Best in Spices. Levering's Brand Pure Spices, Pepper." This sample was part of a shipment by Levering Coffee Co. from Baltimore, Md., to

the said Gately, on or about January 14, 1908, and was included in a bill of pepper sold on or about January 14, 1908, by Parrish Bros. to the said Levering Coffee Co. under a guaranty. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture, and it was found that it contained an excess of pepper shells, and extraneous mineral matter (dirt).

It appearing from this analysis that the article was adulterated and misbranded within the meaning of Sections 7 and 8 of the Act, in the manner hereinbefore stated, the Secretary of Agriculture gave notice to M. J. Gately, the dealer from whom the sample was purchased, as well also, as to Parrish Bros. and Levering Coffee Co. Parrish Bros. being the party responsible for the adulteration and misbranding of the pepper and for its shipment in interstate commerce, and it appearing that provisions of the Act had been violated by the said Parrish Bros., on June 25, 1909, the Secretary of Agriculture reported the facts and evidence (F. & D. No. 626) to the Attorney General, by whom they were referred to the United States Attorney for the District of Maryland, who filed an information against the said Parrish Bros. with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

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F. & D. No. 175. Issued February 10, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 160, FOOD AND DRUGS ACT.

MISBRANDING OF "BUCHU GIN."

In accordance with the provisions of Section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States v. 109 Cases of a Food and Drug known as "Bouvier's Buchu Gin," a proceeding of libel under Section 10 of the aforesaid act, for seizure and condemnation of said 109 cases of buchu gin, lately pending, and finally determined on November 30, 1909, in the Supreme Court of the District of Columbia by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

A sample of gin labeled and branded "Bouvier's Buchu Gin" had been analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain a quantity of alcohol, when, on or about September 18, 1908, an inspector of said Department found in the possession of the following named persons in Washington, D. C., the number of cases of the aforesaid buchu gin stated: W. D. Barry, 2024 14th street, 9 cases; P. J. Collins, 5th and N streets, 5 cases; M. O. Donoghue, 1st and O streets, 5 cases; M. McInerney, 7th street, 5 cases; W. Conners, 1225 7th street, 5 cases; James Enright, 306 4½ street, 10 cases; W. J. Donovan, 1528 7th street, 5 cases; and N. H. Shea, 632 Pennsylvania Ave., 65 cases. Each case was labeled and branded "Bouvier's Buchu Gin," and contained 12 bottles similarly labeled. The gin had been shipped on September 8, 1908, to N. H. Shea, Washington, D. C., by the Dr. C. Bouvier Specialty Co., from Louisville, Kentucky. From the aforesaid analysis it appeared that the gin was misbranded within the meaning of Section 8 of the act, for the reason that, being a drug, it failed to bear a statement on the labels of the quantity or proportion of alcohol contained therein.

Accordingly, on September 18, 1908, the Secretary of Agriculture notified the United States Attorney for the District of Columbia that the aforesaid 109 cases of buchu gin were then in the possession of the above stated parties in said District, having been shipped as above stated, and that they were misbranded within the meaning of the act. On September 19, 1908, the United States Attorney filed a libel in the Supreme Court of the District of Columbia, praying seizure, condemnation, and forfeiture of the said gin. To this libel the Dr. C. Bouvier Specialty Co. appeared, set up their claim to the gin, filed their answer, and, together with the United States Attorney, submitted the issue to the court upon an agreed statement of facts wherein it was admitted by the said parties that the gin contained alcohol and that there was no statement on the label of the quantity or proportion thereof. The case having come on for final hearing on November 30, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA *vs.* 109 CASES OF A FOOD AND DRUG KNOWN AS "Bouvier's Buchu Gin."	District No. 783.

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein on the 19th day of September, A. D. 1908, the Marshal of the United States for the District of Columbia has seized one hundred and ten cases, valued at six hundred and sixty dollars ($660.00), of Bouvier's Buchu Gin, and it further appearing to the court that the claimant of the said one hundred and ten cases, so seized as aforesaid, Bouvier Specialty Company, a corporation, has entered its appearance and filed herein its answer to the libel and has agreed through its attorneys, W. M. Hough, A. B. Hayes, and Levi Cooke, with the Attorney of the United States in and for the District of Columbia, upon a statement of facts filed herein on the 30th day of November, A. D. 1909; and it further appearing that in and upon the labels and devices upon said cases and bottles there is no statement of the quantity and proportion of alcohol contained in said liquid preparation, and that the said liquid is a medicinal preparation and contains alcohol; and it further appearing that the said cases and bottles were shipped from the state of Kentucky to the District of Columbia, and remain in said District in original unbroken packages, and further that at the time of the seizure herein the said cases and bottles were offered for sale in said District;

It is, this thirtieth day of November, A. D. 1909,

Adjudged, ordered and decreed: That the said one hundred and ten cases of the said food and drug now in the custody of the said United States Marshal, are misbranded within the meaning of the Act of Congress approved June 30th, 1906, in that the labels upon said cases and bottles do not bear a statement of the quantity and proportion of alcohol contained in said liquid preparation.

It is further ordered: That the said one hundred and ten cases and the bottles of said liquid preparation contained therein, be and they are hereby condemned, and they shall be disposed of by sale by the said United States Marshal under such terms and conditions as will not violate the provisions of the said Act of Congress approved June 30th, A. D. 1906.

It is further ordered, that the respondent,

Bouvier Specialty Company,

pay all of the costs of these proceedings.

It is provided, however, that upon the said respondent, Bouvier Specialty Company, paying all the costs of these proceedings, and executing and delivering to the United States a good and sufficient bond with surety to be approved by the Court, in the penal sum of one thousand two hundred dollars ($1,200.00) conditioned that the said one hundred and ten cases and the bottles of said liquid preparation contained therein shall not be sold or in any manner whatever disposed of contrary to the provisions of the said Act of Congress approved June 30th, 1906, the said United States Marshal shall re-deliver and surrender the said one hundred and ten cases of Bouvier's Buchu Gin to the respondent in lieu of the disposition by sale as aforesaid.

The said claimant, the Dr. Bouvier Specialty Co., having complied with the terms of the aforesaid decree and Section 10 of the Food and Drugs Act of June 30, 1906, the said 109 cases were re-delivered to it.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

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I. S. Nos. 1103–a and 11828.
F. & D. Nos. 418 and 429.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 161, FOOD AND DRUGS ACT.

MISBRANDING OF EVAPORATED APPLES.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the Act, notice is given that on the 12th day of November, 1909, in the District Court of the United States for the Eastern Division of the Eastern Judicial District of Missouri, a judgment was entered in the case of the United States against the R. E. Funsten Dried Fruit & Nut Co., a prosecution for the violation of section 2 of the aforesaid Act, upon an information in substance charging said defendant corporation with having shipped from St. Louis, Mo., to Cincinnati, O., a certain box or package of evaporated apples labeled: "Fifty Pounds, Net, 'Boss' Brand Choice Evaporated Apples, Made from Selected Fruit," which were misbranded in that the contents of said box or package were represented as made from selected fruit, whereas, in truth and in fact, said contents were made from ordinary stock not selected and containing some wormy and partly decayed fruit.

The above information in a second count, further charged said defendant corporation with having shipped from St. Louis, Mo., to Terre Haute, Ind., a box or package labeled: "Victor Brand Prime Funsten Evaporated Apples—One Pound made from best selected apples—are healthful, delicious and most desirable for family use," the contents of which box or package were misbranded in that they were represented as made from choice selected fruit, whereas, in truth and fact, said contents consisted of ordinary stock not selected and contained some wormy and partly decayed fruit. The defendant pleaded guilty to both counts of said information and was fined ten dollars on each count.

The facts which led to the filing of the above information were as follows:

On or about February 14, 1908, an inspector of the United States Department of Agriculture purchased the sample of evaporated apples labeled as above from A. Janszen & Company, at Cincinnati, O., which sample was forwarded to an analyst in the Bureau of Chemistry of said Department, where it was found that it consisted of wormy and partly decayed fruit, and that it was not made from selected stock.

A. Janszen & Co. and the R. E. Funsten Dried Fruit and Nut Co. were duly notified that said product was misbranded in the above particulars and were given an opportunity to be heard and were heard in regard to said misbranding and it appearing that a violation of the Act had been committed, the facts were reported by the Secretary of Agriculture to the Attorney General and the case referred to the United States Attorney for the Eastern District of Missouri who incorporated the above charge into the first count of the foregoing information.

The offense charged in the second count in said information was based on the following facts:

An inspector of the United States Department of Agriculture on or about January 30, 1908 purchased from George Casad at Olney, Ill. a sample of evaporated apples labeled as set forth in the second count of said information, which sample was contained in the consignment of the product shipped to the dealer from whom the inspector purchased it by Hulman & Company, Terre Haute, Ind., who in turn had received the product from the defendant herein. This sample was likewise analyzed in the Bureau of Chemistry of the United States Department of Agriculture, where it was found that it was not made from selected but ordinary stock and that it contained wormy and partly decayed fruit.

The said George Casad, the said Hulman & Company and the said R. E. Funsten Dried Fruit and Nut Co. were duly notified that the contents of said package were misbranded and were given an opportunity to be heard and were heard in regard to said misbranding and it appearing that there had been a violation of the Act, the facts were reported to the Attorney General and the case referred to the aforesaid United States Attorney who incorporated said charges into the second count of an information which was duly filed against the R. E. Funsten Dried Fruit and Nut Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

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S. No. 318.
F. & D. No. 895.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 162, FOOD AND DRUGS ACT.

ADULTERATION OF SEEDLESS RAISINS.

In accordance with the provisions of section 4 of the Food & Drugs Act of June 30, 1906, and regulation 6 of the Rules and Regulations for the enforcement of the Act, notice is given that on the 18th day of October, 1909, in the Supreme Court of the District of Columbia, holding a district court of the United States, judgment was entered in the below entitled case, wherein a libel was filed under section 10 of the aforesaid Act, which alleged in substance that 12 boxes more or less of an article of food labeled "Phoenix Brand Floated Seedless Muscatels, Phoenix Packing Company, Fresno," which had been shipped in interstate commerce to John C. Ewald, at Washington, D. C., and found in his possession, were adulterated in that they were infested with worms and other animal matter, and so contaminated by the presence thereof as to be unfit for human consumption, and further alleging that the said John C. Ewald was engaged in the business of baking food supplies and of selling bakers' supplies and that the said adulterated raisins were being offered for sale by him in the District of Columbia, after being prepared as food products. The libel prayed process against all claimants to said raisins and seizure and condemnation of the same.

The said John C. Ewald appeared as claimant and made answer to the libel, consenting to the passage of the decree herein, which is in substance and form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA. HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA, *Libelant*,
vs.
TWELVE BOXES, MORE OR LESS, OF SEEDLESS RAISINS. } District No. 846.

JUDGMENT OF CONDEMNATION.

On motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon the libel filed herein

on the 22nd day of September, A. D. 1909, the Marshal of the United States for the District of Columbia has seized eleven boxes of seedless raisins;

And it further appearing that John C. Ewald has entered his appearance herein as the person on whose premises the above mentioned property was located at the time of the seizure, and has filed herein his plea consenting to this judgment of condemnation, and no objection being signified to the Court,

And it further appearing that each and every box of said raisins is infested with worms and other animal matter and is so contaminated by the presence of the said worms and other animal matter that the said seedless raisins are unfit for human consumption;

And it further appearing that the said boxs of raisins and each of them, were offered for sale by the said John C. Ewald in the District of Columbia at the time of the filing of the libel herein;

It is this 18th day of October, A. D. 1909,

Adjudged, ordered and decreed: That the said boxes of raisins, and each of them, in the custody of the United States Marshal, are adulterated within the meaning of the said Act of Congress approved June 30, 1906;

And it is further ordered: That the said boxes of raisins and each of them, be, and they are hereby, condemned, and they shall be destroyed by the said Marshal of the United States in such manner as is provided by the said Act of Congress approved June 30, 1906.

And it is further ordered: That the said John C. Ewald pay all the costs of these proceedings.

The facts which led to the filing of the above libel were as follows:

Inspector of the United States Department of Agriculture found on the premises of John C. Ewald, No. 1244 Florida Avenue, Washington, D. C., 12 fifty-pound boxes of seedless raisins, labeled as above described, which had been shipped from Comly Flannigan & Company, Philadelphia, Pa., on or about August 7, 1909. The inspector ascertained that samples taken from three of the above boxes were infested with worms and other insects, and so contaminated as to be unfit for use in foods. On September 21, 1909, the Secretary of Agriculture reported the facts to the United States Attorney for the District of Columbia who filed the above libel with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

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I. S. No. 9341-a.
F. & D. No. 273.

Issued February 10, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 163, FOOD AND DRUGS ACT.

MISBRANDING OF "MAPLEINE."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906 and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States v. 300 Cases of Mapleine, a proceeding of libel for seizure and condemnation of said Mapleine under section 10 of the aforesaid act lately pending, and finally determined by entry of a decree of condemnation and forfeiture on September 18, 1909, in the District Court of the United States for the Northern District of Illinois, wherein Crescent Manufacturing Company, of Seattle, Washington, was claimant. The article was misbranded within the meaning of section 8 of the act in that the cases containing it were labeled and branded "Crescent Mapleine," thereby representing that it contained a product of the maple tree, whereas it contained none of such product.

INTERVENTION, CLAIM, EXCEPTION, AND ANSWER OF CRESCENT MANUFACTURING COMPANY.

To the original and amended libels of the United States, filed, respectively, on December 16, 1908 and April 28, 1909, praying seizure, condemnation, and forfeiture of the Mapleine, Crescent Manufacturing Company, the manufacturer and shipper of said Mapleine, intervened and filed its claim, exceptions and answer, wherein, as matter of answer, it admitted that the cases of Mapleine were in the City of Chicago at the time the libel was filed, denied that the article was misbranded; and alleged that the article was a flavoring extract and not a syrup and was a healthful vegetable product, containing no poisonous or deleterious substance; that it was much darker than maple syrup and in no way resembled maple syrup; that Mapleine was a mixture or compound long known as an article of food under its own distinctive

name; and that Mapleine was a trade name registered as a trademark in the United States Patent Office; and, as matter of exception, alleged that the libel was insufficient and informal in that it was not under oath; that section 10 of the act was unconstitutional and void because it allowed the seizure and confiscation of property without requiring the filing of complaint or information under oath or affirmation as guaranteed by the Fourth Amendment to the Constitution; that the Food and Drugs Act, under which the seizure was made, was unconstitutional and void because Congress had no power to enact it; and that the seizure of said Mapleine was illegal and void because it had reached its destination at the time the libel was filed.

The foregoing exceptions of the claimant having duly come on for hearing, and having been fully argued, the court orally overruled them.

The case having duly come on for further hearing on the facts as alleged in the libel of the United States and the answer of claimant, and a jury having been demanded by the claimant, on April 28, 1909 the issue was submitted to the jury, and the testimony and arguments of counsel having been concluded on April 30, 1909, the court instructed the jury as follows:

INSTRUCTIONS OF THE COURT TO THE JURY.

The Court (Sanborn, D. J.): This is a civil case, as distinguished from a criminal case, and is called a suit *in rem*. That is, a suit against property, there being in the first instance no defendant, but the owner of the property being allowed to intervene and set up a claim for the property and defend, proceeding just as if such owner were an original defendant in the suit. But it does not become a suit against any person at any stage of the case.

If there was a misbranding under the food and drugs statute, then as soon as the misbranded packages were started on shipment from Seattle to Chicago, they became forfeited to the United States. They might then be seized by the officers of the United States as its own property wherever the boxes might be found, so long as they are either being transported, or after transportation so long as they remain unloaded, unsold or in the original packages. If, however, the Government waits until the cases are broken open, then it at once loses all its title and ownership to the goods which it previously had, and then can only proceed under the criminal provision of the food and drugs act by prosecuting any person or any corporation who either ships misbranded goods or receives them, or delivers them in original packages to any other person.

I call to your attention this because counsel have adverted to the fact that the Government might have proceeded against the bottles. The Government had no right to proceed against the bottles, but must proceed only against the original packages, or else prosecute any person who has anything to do with the packages themselves.

Now, as this case is not technically brought against any person or any corporation, but only against the boxes, the fact that the Crescent Manufacturing Company may sustain a loss, if you find the cases were misbranded, or there was any false statement on the label, is not in question, and should not be considered by you in reaching the verdict, but as the case involves a for-

feiture of property, that is as the property becomes the property of the Government immediately upon being misbranded and shipped, and as the burden of proof is on the Government to show by the greater weight of the evidence that the label in question is false or misleading to the ordinary purchaser, it is your duty under these circumstances to scrutinize the evidence tending to show that the label was calculated to deceive more carefully than you otherwise would in the ordinary civil case. This is because misbranding is attended with harsh consequences operating, as it does, as a forfeiture of the property, of the ownership of all the articles so misbranded.

Now, in deciding the meaning of the word "Mapleine", you are to give it its ordinary and customary meaning, as understood by the general public, and not any technical meaning given it by any expert witness. You may consider, of course, all the testimony of all the witnesses, expert or otherwise, but the test is what the common run of purchasers would understand by the word. The important question is whether there was or was not a misbranding. You will notice how broad the law is in its definition. If the statement, design or device in question is false, or misleading, not necessarily as a whole, but in any particular, then there was a misbranding, if from the evidence you find that in any one point there was a false or misleading statement on the label, taking into consideration what I shall state hereafter as to the bottles and the cartons, then there should be a verdict of guilty.

The purpose of the law is not to protect experts or scientific men alone who know the nature and value of food products, but to protect ordinary people like you and me—people without scientific knowledge or experience.

Was there a false statement on the label—that is, a statement that was untrue, erroneous, or not strictly according to the fact? Or, was there in the label a misleading statement—one which would in any way tend to lead an ordinary person wrongly, and misguide or lead astray, lead into error, cause to mistake, delude or deceive? If you find the label was either false in any particular, or misleading in any particular, from any point of view, or any aspect which may reasonably be considered false or untrue, or calculated to deceive, mislead, delude, cause to mistake or lead into error or mistake, the ordinary purchaser; then there was a misbranding under the provisions of the statute. Now, in considering this question of false statement or misbranding, there are certain things which appear in the evidence, which you are not only allowed to take into account, but which you should consider. I may mention them as follows:

Whether purchasers of "Mapleine" bought from the box-label alone, or from the box-label and the statements on the cartons or wrappers and the bottles. Now, if you find that the "Mapleine" was bought from the labels on the cartons and bottles, then you may consider whether the ordinary purchaser, the average purchaser, would be deceived or misled.

Another question which you should take into account is whether "Mapleine" is known, or was when these boxes were seized, known as an article of food under its own distinctive name—and a distinctive name is either one so arbitrary or fanciful as to clearly distinguish it from all other things, or one which by common use has come to mean a substance clearly distinguishable by the public from everything else. In this connection, you should consider whether the evidence shows that there was no other article in the market or common or general to the public, used as a maple extract or containing maple product. You should also consider if you think that "Mapleine" was bought from the carton or bottle as well as from the words on the box, the size and appearance of the boxes or the cases or bottles, and the labels, the color of "Mapleine" as compared with genuine maple—its taste and smell—the price asked for it, and

the directions for its use. Even if you should believe that the word "Mapleine" standing alone would be deceptive and misleading, yet you may consider any statement contained on the carton or bottle which you believe the common run of purchasers would read in making their purchases. If you believe that "Mapleine" has been on the market a sufficient length of time and has been sufficiently advertised so as to have become generally known to the public as an article containing no genuine maple syrup or any maple product, but only to produce a maple flavor, then you should take this into consideration on the question whether the label was or was not deceptive or misleading. You should also consider that the label was registered as a trademark by the Commissioner of Patents of the United States, in connection with the picture of a leaf, as having some bearing on the question whether the word "Mapleine" has become a distinctive name, or is a distinctive name, as I have defined that term to you. You should also remember that "Mapleine" is not injurious to health. Further, if you believe from the evidence that no complaints of mistake or of being deceived or misled have been made by purchasers of "Mapleine", you may consider this as tending to show that the label on the cases, cartons and bottles is not calculated to deceive or mislead. But, it is not necessary, in order that you should render a verdict of guilty, that any person was actually deceived or misled into purchasing "Mapleine" by the label on the cases in question. It is enough if you find that the label is misleading in any particular.

Gentlemen, I stated to you that the Government had the right to seize the boxes, but after the boxes had become opened the Government lost its right to seize the contents of the boxes. I was slightly in error in making that statement, in not going further and stating that while the Government can only seize the original package, yet it may open the package, and if it finds anything wrong on the inside of the package which does not appear on the outside, that is any misbranding or any false statement, it has just as much right to proceed in a case of this kind upon that false statement or misbranding as it has upon the label on the outside of the package which is seized. But, if it does not seize the original package before it is opened, then it has no right whatever to do anything more than to prosecute any party who may deliver the goods or receive the goods in a criminal case.

Your verdict will be "Guilty" or "Not Guilty," and the verdict will be handed to you by the officer.

Referring to the second page of the charge, the paragraph commencing:

"Now, in deciding the meaning of the word "Mapleine," you are to give to it its ordinary and customary meaning."

The instruction given was that in deciding the meaning of the word "Mapleine" you are to give it its ordinary and customary meaning, as understood by the general public, and not any technical meaning given it by any expert witness. You are to consider all the testimony of all the witnesses, expert or otherwise, but the test is what the common run of purchasers would understand by the word. What is there about that that is uncertain or mixed?

The question is what this word "Mapleine" in connection with all the facts and circumstances of this case, means to the common run of purchasers.

You are to consider whether they bought on the box label, or on the label on the cartons and bottles; consider the language on the cartons; and after you have considered all of them, you are then to try and solve the question of misbranding—that is, whether the common run of purchasers would understand by that word that there was or was not any genuine maple in the product.

The question is what would the ordinary purchaser—just the common run of purchasers—in view of the way in which they buy it—language on the box

and everything that comes to their attention, looks of the bottle, color of it (if they see it), the fact that the bottle is small, and all other facts that present themselves to the purchaser when they come to buy the goods. What would they understand from the whole situation? Not exactly what the word "Mapleine" standing by itself—but the question is, what it means in connection with all the facts and circumstances that present themselves to the purchaser; how would the purchaser understand it, seeing the bottle, or seeing the box?

Even if you should believe that the word "Mapleine" standing alone, would be deceptive and misleading, yet you may consider any statement contained on the carton or bottle which you believe the common run of purchasers would read in making the purchase.

Now, gentlemen of the jury, in another part of the charge it was stated, the question was stated in this way: Was there a false statement on the label, that is a statement that was untrue, erroneous, or not strictly according to the facts. Or, was there in the label a misleading statement, one which would in any way tend to lead an ordinary person wrongly, or misguide, or lead astray. Now, there were two questions submitted there, and that was taken from the first part of section 8 of the law defining the word, "misbranded."

It says the word misbranded shall apply to all articles of food, the label, the package label, of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein, which shall be false or misleading in any particular. Now, in determining what the meaning of this word misbranding was, you are to determine two things: Was the label false in any particular? was it misleading in any particular?

Now, whether or not it was false, depends a good deal, you see, upon whether it would mislead anybody, whether it would deceive anybody, because this term "Mapleine," of course, is a coined word, and is not in the dictionary. You heard the testimony as to what meaning was given it by the Crescent Manufacturing Company, but that is not the test. The test is, what is the general signification of the word, as the ordinary man would understand it? Was it false in any particular, in its true and proper signification? Now, its true and proper signification depends upon what the ordinary man would understand from all the facts and circumstances appearing in the evidence. These two things, while they are separate, are yet connected, because here is a term which starts out without any meaning—I mean any settled or definite, or dictionary meaning. The parties who coin the word give it a meaning, and then they send out the label with the word upon it. Now, the question is: Is there anything false in that word, any suggestion of any falsehood in that word, or any suggestion of anything misleading or deceiving in that word? Now, I think it comes down to the question as to what the people would understand by that word from the whole situation, including all the statements on the label, and anything else the purchaser would naturally see.

Here is a word that starts out without any meaning at all in the dictionary. It may be plain on its face, and may not. If you think this word is plain on its face, of course, you must find the property guilty under the law, but if you think this word is ambiguous on its face, then you may go into the question, what would the ordinary man understand by it, in view of all the facts and circumstances brought to his notice in purchasing the goods? The real purpose of the act is to protect the public against imposition. You may take that into consideration. Now, if nobody is injured, nobody harmed, what difference does it make?

I can see it is a close case, gentlemen, and a difficult question, but you must do the best you can with it.

The jury having returned a verdict finding the said Mapleine misbranded, on September 18, 1909, the court rendered its decree therein in substance and in form as follows:

UNITED STATES OF AMERICA
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION.

UNITED STATES OF AMERICA
v.
THREE HUNDRED CASES OF CRESCENT MAPLEINE. } No. 10139.

DECREE OF THE COURT.

This cause coming on by motion of Edwin W. Sims, United States Attorney for the Northern District of Illinois, for entry of judgment, this court finds that it has jurisdiction in this case and of the respective parties thereto, and being fully advised in the premises further finds:

1. That on the sixteenth day of December, in the year of our Lord nineteen hundred and eight, the United States of America, by Edwin W. Sims, its attorney, filed an information in the nature of libel in this court against three hundred cases of an article of food called "Crescent Mapleine," and that forthwith a monition was issued to the United States Marshal for the Northern District of Illinois under which monition the said three hundred cases of Mapleine were seized in their original packages while in the possession of one W. H. Nicholls and Company, at numbers 33 to 35 River street, Chicago, in the State of Illinois, in the division and district aforesaid, and by virtue of the said monition and seizure the said three hundred cases of Crescent Mapleine are now in possession of the United States Marshal at Chicago, in the division and district aforesaid.

2. That the claimant has admitted in its answer to the information and libel against the goods aforesaid that the Crescent Manufacturing Company of Seattle, Washington, is the owner of the goods so seized as aforesaid; that the said goods so seized were shipped from Seattle, in the State of Washington, to Chicago, in the State of Illinois, and that the three hundred cases of Crescent Mapleine composing the interstate shipment aforesaid were stored in the possession of W. H. Nicholls and Company, at numbers 33 to 35 River street, Chicago, in the division and district aforesaid, at the time of the said seizure, and before the said cases of Crescent Mapleine had been delivered to the consignee.

3. That the case coming on for trial April 28, 1909, before a jury, upon the single issue joined as to whether the three hundred cases labelled "Crescent Mapleine, Serial No. 907, Crescent Mfg. Co., Seattle, U. S. A.", composing the interstate shipment aforesaid, and filled with an article of food called "Crescent Mapleine" were misbranded in manner and form as alleged in the said information as amended, the said jury, after hearing all the evidence and argument of counsel, returned a verdict of guilty.

It is therefore ordered, adjudged and decreed that the said three hundred cases of Crescent Mapleine composing the interstate shipment aforesaid, are misbranded within the terms of Section 8 of the Food and Drugs Act of the United States, enacted by the Congress of the said United States June 30, 1906, and the same are hereby declared to be forfeited and confiscated to the United States.

It is further ordered, adjudged and decreed, in lieu of the sale of the said property above described, as provided by Section 10 of the Food and Drugs Act of the United States aforesaid, that upon the payment of all the costs of this libel proceeding and the execution and delivery within thirty days from date hereof of a good and sufficient bond by the claimant, and surety to be approved by this court, or in the absence of the court, by the clerk thereof, in the sum of two thousand five hundred dollars, conditioned that said claimant, his agents or attorneys shall not dispose of the said Crescent Mapleine composing the shipment aforesaid in violation of the Act of Congress enacted June 30, 1906, known as the Food and Drugs Act of the United States, or against the laws of any state, territory or insular possession of the said United States, the said three hundred cases of Crescent Mapleine now in the possession of the United States be surrendered to the claimant.

The facts in the case were as follows:

Prior to December 4, 1908, an analysis was made in the Bureau of Chemistry of the United States Department of Agriculture of an article of food contained in bottles labeled and branded "Mapleine, a vegetable product, producing a flavoring similar to maple. A delicious flavoring for syrups, cakes, candies, bon bons, frosting, ice cream, etc., made by the Crescent Manufacturing Co., Seattle, Wash.", and it was found that the article contained no product of the maple tree. On or about December 14, 1908, an inspector of the aforesaid Department found in the possession of W. H. Nicholls and Company, Chicago, Illinois, 300 cases of the aforesaid article of food, each case containing three dozen two-ounce bottles labeled as aforesaid and being branded: "3 doz. 2 oz. Crescent Mapleine. Crescent Mfg. Co., Seattle, U. S. A. Serial No. 907." The said 300 cases of Mapleine had been shipped by the said Crescent Manufacturing Company from Seattle, Washington, on or about October 20 and November 10, 1908, to Louis Hilfer Company, Chicago, Illinois. It appearing that the Mapleine was misbranded within the meaning of section 8 of the act and that the aforesaid 300 cases had been transported from the State of Washington to the State of Illinois and remained in original unbroken packages, on December 15, 1908 the Secretary of Agriculture reported the facts to the United States Attorney for the Northern District of Illinois who, on December 16, 1908, filed a libel in the District Court of the United States for said District praying seizure, condemnation, and forfeiture of the said 300 cases, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 13, 1910.

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I. S. No. 1388.
F. & D. No. 190.

Issued February 8, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 164, FOOD AND DRUGS ACT.

MISBRANDING OF PEPPER.

In accordance with the provisions of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the Rules and Regulations for the enforcement of the Act, notice is given that on the 26th day of April, 1909, in the District Court of the United States for the Western District of Missouri, a judgment was entered in the case of the United States against Charles Spies and V. M. Seiter, trading as Charles Spies & Co., a prosecution for a violation of section 2 of the aforesaid Act upon an information in substance charging said defendants with having shipped and delivered for shipment, from the State of Missouri to the State of Kansas, four dozen boxes of an article labeled: "Blankes strictly pure black pepper. C. F. Blanke & Co., St. Louis, U. S. A." "The spice in this package is ground of well selected stock and guaranteed strictly pure," which was adulterated and misbranded in that the contents of said boxes were represented as pepper, when in fact they were a mixture of pepper and olive pits. The defendants pleaded guilty and were fined $25.00.

The facts which led to the filing of the information were as follows:

An inspector of the United States Department of Agriculture purchased from the Rotert Grocery Co., at Kansas City, Kansas, a sample of the article labeled as above described which had been shipped to said dealer from Kansas City, Missouri, by the defendant herein. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to be a mixture of black pepper and olive pits. The said Charles Spies and the said V. M. Seiter were duly notified that said article was adulterated and misbranded and were given an opportunity to be heard and were heard in regard to said charges and it appearing that there had been a vio-

lation of the Act the facts were reported on October 5, 1908, by the Secretary of Agriculture to the Attorney General and the case referred to the United States Attorney for the Western District of Missouri, who filed the above information with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

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I. S. No. 17005–a and 17006–a.
F. & D. No. 212.

Issued February 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 165, FOOD AND DRUGS ACT.

MISBRANDING OF CANNED PEAS.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906 and of Regulation 6 of the Rules and Regulations for the enforcement of the Act, notice is given that on the 4th day of December, 1908 in the District Court of the United States for the Eastern District of Kentucky a judgment was entered in the below entitled case wherein a libel was filed under section 10 of the aforesaid Act alleging in substance that 100 cases of canned peas each containing two dozen cans labeled:

"Standard Sifted Early June Peas, The Van Camp Packing Company, Indianapolis, Indiana;"

and 100 cases of canned peas each containing two dozen cans labeled: "The Van Camp Early June Peas, Indianapolis, Indiana;" each can in each of said cases bearing the statement: "Net weight 22 ounces," which had been shipped from Indianapolis, Indiana by the Van Camp Packing Company to H. Schmidt & Sons, at Covington, Ky. and there offered for sale, were misbranded in that the said 200 cases each contained 12 cans of peas branded "Net weight 22 ounces" when in fact all of said cans so branded did not contain 22 ounces but were of less weight, to wit: not exceeding 20–5/6 ounces.

The libel prayed process against all claimants to said peas and seizure and condemnation of the same. The Van Camp Packing Company of Indianapolis, Ind. appeared as claimant, filed its answer admitting the allegations of the libel whereupon the Court rendered the decree herein in substance and in form as follows:

"UNITED STATES DISTRICT COURT EASTERN DISTRICT OF KENTUCKY.

THE UNITED STATES OF AMERICA
vs
TWO HUNDRED CASES OF PEAS. } # 31

ORDER.

The claimant of the Peas herein having admitted in open Court that the facts and statements contained in the libel herein are true, and having presented bond

in the sum of five hundred dollars, ($500.00) as provided in Section 10 of the Act of Congress, approved June 30th, 1906;

It is hereby ordered that upon the payment of the costs of this action, and the approval of said bond by the Clerk as to its sufficiency, the Marshal is directed to release to the substituted claimants, to wit The Van Camp Packing Company, the cases of Peas seized herein.

A. M. J. COCHRAN, *Judge.*

DEC. 4th, 1908."

The facts which led to the filing of the above libel were as follows:

On or about October 29, 1908 an inspector of the United States Department of Agriculture found in the possession of H. Schmidt & Sons, Covington, Ky., 200 cases (each containing 24 cans) labeled as above described, each of said cans bearing the statement: "Net weight 22 ounces." A number of the cans were weighed in the Bureau of Chemistry of the United States Department of Agriculture and were found to contain from 1 ounce to 1–1/6 ounces less than the weight declared upon the label.

On October 31, 1908 the Secretary of Agriculture reported the above facts to the United States Attorney for the Eastern District of Kentucky who filed the above libel with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

JANUARY 15, 1910.

NOTICES OF JUDGMENT.

FOODS.

DRUGS.

O

I. S. No. 16744-a
F. & D. No. 901.

Issued, February 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 166, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF CUSTARD.

In accordance with the provisions of Section 4 of the Food and Drugs Act, June 30, 1906, and of Regulation 6 of the rules and regulations for the enforcement of the Act, notice is given that on the 27th day of October, 1909, in the District Court of the United States for the District of Maryland, a judgment was entered in the case of the United States v. Louis Horpel, trading as Louis Horpel & Company, a prosecution upon an information in substance charging that said defendant did unlawfully ship and deliver for shipment from Baltimore, Maryland, to Winchester, Virginia, Two Hundred and Eighty packages of an article called "Instantaneous Custard Preparation," which was adulterated in that corn starch was mixed and packed with said article so as to reduce, lower and injuriously affect the quality and strength of said article, and that corn starch was substituted in part for the article; and which was misbranded in that each of said packages was labeled so as to deceive and mislead the purchaser with the words "Instantaneous Custard Preparation," which statement was false and misleading for the reason that it conveyed the impression that the basis of said product was eggs, whereas in truth and in fact, said product contained no eggs.

The defendant pleaded guilty to the above information and the court imposed a fine of $10.

The facts which led to the filing of the information were as follows:

On or about May 25, 1909, an inspector of the United States Department of Agriculture purchased a sample of the article above described from Cooper Brothers at Winchester, Va., which sample was contained in a consignment of the product shipped to said dealers from Baltimore, Maryland, by the said defendant. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture, where it was found that the product consisted mainly of corn starch,

and contained no egg. The said Louis Horpel, trading as Louis Horpel & Company, was duly notified that said product was adulterated and misbranded, as above set out, and was given an opportunity to be heard, and was heard in regard to said adulteration and misbranding. At said hearing the defendants made the claim that custard could be prepared without the use of the eggs, but this Department held, and was prepared to prove that custard cannot properly be prepared without the use of eggs.

It appearing that certain provisions of the Act had been violated the facts were, on September 24, 1909, reported to the Attorney-General by the Secretary of Agriculture, and the case referred to the United States Attorney for the District of Maryland, who filed an information against the said Louis Horpel, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

S. No. 361.
F. & D. No. 991.

Issued February 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 167, FOOD AND DRUGS ACT.

MISBRANDING OF MACARONI.

In accordance with the provisions of Section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 17th day of November, 1909, in the District Court of the United States for the District of Rhode Island, judgment was entered in the below entitled case, wherein a libel was filed under Section 10 of the aforesaid act, alleging in substance that one hundred and fifty (150) cases, more or less, of macaroni labeled: "MACARONI SAVOIA BRAND GRAGNANO," and between the words "Savoia" and "Gragnano" appeared the Merchant Marine shield of Italy, together with a representation of a mountain, a volcano, a castle, a body of water, and in small letters on the bottom of the label "Guaranteed under the Food and Drug Act, June 30, 1906, Serial No. 3880," which had been shipped by the Atlantic Macaroni Co. from Long Island City, New York, to Providence, Rhode Island, was misbranded in that it was labeled and branded so as to mislead and deceive the purchaser thereof, for the reason that said label conveys the impression that said macaroni is a foreign product, when in truth and in fact it was manufactured in Long Island City, N. Y.

The libel prayed process against all claimants to the macaroni, and seizure and condemnation of the same. F. P. Ventrone appeared as claimant and filed an answer to the libel, whereupon the court found for the libellant and entered the decree in substance and form as follows:

UNITED STATES DISTRICT COURT DISTRICT OF RHODE ISLAND.

UNITED STATES OF AMERICA, *libellant*,
v.
150 CASES OF MACARONI, F. P. VENTRONE, *Claimant.*
No. 1129.

Now on this seventeenth day of November, A. D. 1909, comes the United States by Charles A. Wilson, United States Attorney for the District of Rhode Island, and F. P. Ventrone, claimant and owner of 208 cases of macaroni, in his own proper

person, and said cause coming on to be heard on the pleadings herein, and after due deliberation being had in the premises the Court finds that the allegations contained in the libel are true and that the United States is entitled to recover.

It is therefore, ordered, adjudged and decreed that said 208 cases of macaroni be and the same are hereby condemned as being misbranded under the provisions of the Food & Drug Act of June 30, 1906.

And it appearing to the Court that the costs in this case taxed at $18.02 have been paid by said claimant and owner and the claimant having filed herein and given a satisfactory bond to the effect that said 208 cases of macaroni shall not be sold or otherwise disposed of contrary to the provisions of the Food & Drug Act of June 30, 1906;

It is further ordered, adjudged and decreed that the Marshal be and he is hereby directed to release said 208 cases of macaroni and restore the same to the said F. P. Ventrone, claimant and owner:

By the Court, (Brown J.), Nov. 17, 1909.

WILLIAM P. CROSS,
Clerk.

The facts which led to the filing of the above libel were as follows:

An inspector of the United States Department of Agriculture found in the possession of F. P. Ventrone, Providence, Rhode Island, 150 cases of the macaroni labeled as above described, which had been shipped to the said dealer on or about October 21, 1909, by the Atlantic Macaroni Co., from Long Island City, New York. It being apparent that the product was misbranded in the particulars before mentioned, the Secretary of Agriculture, on November 1, 1909, reported the facts to the United States Attorney for the District of Rhode Island, who filed the libel with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

S. 250.
F. & D. 633.

Issued February 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 168, FOOD AND DRUGS ACT.

MISBRANDING AND ADULTERATION OF VINEGAR.

In accordance with the provisions of Section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 29th day of October, 1909, in the District Court of the United States for the Northern District of Illinois, judgment was entered in the below entitled cause, wherein a libel was filed under Section 10 of the aforesaid act, alleging in substance that 24 barrels of vinegar labeled and branded: "The Leroux Cider & Vinegar Co., Toledo, Ohio—Our Pride Brand Fermented Apple Pure Cider Vinegar," which had been shipped for sale from Toledo, Ohio, to Chicago, Illinois, were misbranded in that the label and brand upon the head of the aforesaid barrels bore a statement regarding the ingredients or substances contained in said article of food, to-wit: "Apple Pure Cider Vinegar," which statement was false and misleading in this, that it induced purchasers to believe that said article of food was a fermented pure apple cider vinegar, whereas, in truth and in fact, it was not such an article, but a mixture colored in imitation of fermented apple pure cider vinegar.

The libel further alleged that the said 24 barrels of vinegar were adulterated in that a dilute acetic acid and a foreign substance had been mixed and packed with it so as to reduce and injuriously affect its quality and strength; that coloring matter had been mixed with it by which its inferiority was concealed; that a foreign material, high in reducing sugars, had been substituted wholly or in part for the article.

The libel prayed process against all claimants to the said 24 barrels of vinegar, and seizure and condemnation of same. The Leroux Cider & Vinegar Co. of Toledo, Ohio, appeared as claimant and filed

answer to the libel, admitting the misbranding and adulteration therein alleged, whereupon the court found for the libellant and entered the decree in substance and in form as follows:

UNITED STATES OF AMERICA, NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION.
IN THE DISTRICT COURT THEREOF. JULY TERM, A. D. 1909.

UNITED STATES OF AMERICA
vs.
TWENTY-FOUR BARRELS OF VINEGAR.

DECREE.

This cause coming on by motion of Edwin W. Sims, United States Attorney for the Northern District of Illinois, for entry of judgment, this court finds that it has jurisdiction in this case and of the respective parties thereto, and being fully advised in the premises, further finds:

1. That on the twenty-ninth day of June, in the year of our Lord nineteen hundred and nine, the United States of America, by Edwin W. Sims, its attorney, filed an information in the nature of libel in this court against twenty-four barrels of vinegar, and that forthwith a monition was issued to the United States Marshal for the Northern District of Illinois, under which monition the said twenty-four barrels of vinegar were seized in their original packages while in the possession of S. Peterson and Company, at their place of business at 124 West Randolph Street, Chicago, in the division and district aforesaid, and by virtue of the said monition and seizure the said twenty-four barrels of vinegar are now in possession of the United States Marshal at Chicago, in the division and district aforesaid.

2. That the claimant, to wit, The Leroux Cider and Vinegar Company of Toledo, Ohio, has admitted in its answer to the information and libel aforesaid that it is the owner of the goods so seized, as aforesaid; that the said goods so seized were shipped from Toledo, in the state of Ohio, to Chicago, in the state of Illinois, on the nineteenth day of May in the year of our Lord nineteen hundred and nine, and that the said twenty-four barrels of vinegar composing the shipment aforesaid, were in the possession of S. Peterson and Company, at their place of business at 124 West Randolph Street, Chicago, in the division and district aforesaid, at the time of the said seizure.

3. That the claimant and owner of the twenty-four barrels of vinegar seized in the manner and form aforesaid, have admitted in their answer to the information and libel against the said twenty-four barrels of vinegar, that the twenty-four barrels filled with an article of food called "Our Pride Brand Fermented Apple Pure Cider Vinegar", composing the shipment aforesaid were misbranded and adulterated in manner and form as alleged in the said information.

It is therefore ordered, adjudged and decreed that the said twenty-four barrels of vinegar composing the interstate shipment aforesaid, are misbranded and adulterated within the terms of Section eight and Section seven of the Food and Drugs Act of the United States enacted by the Congress of the said United States June 30, 1906, and the same are hereby declared to be forfeited and confiscated to the United States.

It is further ordered, adjudged and decreed, in lieu of the sale of the said property above described, as provided by Section ten of the Food and Drugs Act of the United States, aforesaid, that upon the payment of all the costs of this libel proceeding and the execution and delivery within thirty days from date hereof of a good and sufficient bond by the claimant, and surety to be approved by this court, or in the absence of the court, by the clerk thereof, in the sum of one thousand dollars, conditioned that said claimant, its successors or assigns shall not dispose of the said twenty-four barrels of vinegar composing the shipment aforesaid in violation of the

Act of Congress enacted June 30, 1906, known as the Food and Drugs Act of the United States, or against the laws of any state, territory, or insular possession of the said United States, the said twenty-four barrels of vinegar now in the possession of the United States be surrendered to the claimant.

The facts which led to the filing of the libel were as follows:

An inspector of the United States Department of Agriculture found in the possession of S. Peterson & Co., at No. 124 West Randolph Street, Chicago, Ill., 24 barrels of vinegar labeled as above described, which had been shipped to said company on or about May 19, 1909, by the Leroux Cider & Vinegar Co., from Toledo, Ohio. A sample taken from the above consignment was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to consist of a foreign substance high in reducing sugars and a dilute solution of acetic acid, colored in imitation of cider vinegar.

In the opinion of the Department of Agriculture cider vinegar is a product made by the alcoholic and subsequent acetous fermentations of the juice of apples.

The above analysis disclosed the adulteration and misbranding of the vinegar. Thereupon the Secretary of Agriculture reported the facts to the United States Attorney for the Northern District of Illinois, who filed the above libel, with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

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S. No. 204.
F. & D. No. 555.

Issued February 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 169, FOOD AND DRUGS ACT.

MISBRANDING OF VINEGAR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the Rules and Regulations for the enforcement of the Act, notice is given that on the 18th day of August, 1909, in the District Court of the United States for the Middle District of Alabama, judgment was entered in the below entitled case, wherein a libel was filed under section 10 of the aforesaid Act, alleging in substance: That 26 half-barrels of vinegar, labeled on one head "Four Year Old Vinegar," and upon another head, in small letters, "Pure Distilled Vinegar, Colored," which had been shipped by Knadler & Lucas, from Louisville, Kentucky, to the M. O. Carroll Grocery Company, at Ozark, Alabama, and there found in original unbroken packages, were misbranded in the following particulars:

The labels on each of said half-barrels bore a statement regarding the ingredients or substances contained therein, which statement was false and misleading in this, that said label represented the contents of said half-barrels to be "Four Year Old Vinegar," when in truth and in fact, said half-barrels contained distilled vinegar below standard and colored with caramel. The libel prayed process against all claimants to the said 26 half-barrels of vinegar, and seizure and condemnation of the same.

No claimants having appeared to make answer to the libel, the Court found for the Libelant and rendered the following decree:

IN THE DISTRICT COURT OF THE UNITED STATES, FOR THE SOUTHERN DIVISION OF THE MIDDLE DISTRICT OF ALABAMA.

THE UNITED STATES, (*Libelant*)
v.
TWENTY-SIX ONE-HALF BARRELS OF VINEGAR. } No. 5.

And now on the 18th day of August, 1909, at a term of said court at Dothan, Alabama, said cause came on for trial, and it appearing to the court that upon

libel filed herein, monition and warrant of arrest were duly issued and served on the 21st day of April, 1909, and that by virtue of said warrant the marshal had seized and now holds in the original packages, twenty-four (24) half barrels of vinegar branded as follows, to-wit: on one head "Four-year-old vinegar, Knadler & Lucas, Louisville, Kentucky, and Norfolk, Virginia," and upon the other head of said half-barrels appears in small letters, "Pure distilled grain vinegar, colored," which was seized at Ozark, Alabama, in this division of the Middle District of Alabama, while in the possession of the M. O. Carroll Grocery Company; and it further appearing that said Carroll Grocery Company and all others were duly warned to appear in this court on the first Monday in June, 1909, if that were a day of jurisdiction, and if not, then on the first day of jurisdiction, then and there to interpose any claim they might have in and to said property, and to appear and answer the libel; and that notwithstanding said seizure, monition and warning no one has appeared to claim said twenty-four (24) half-barrels of vinegar, or any interest therein, and said cause having been duly called, thereupon, the court heard evidence as to the character of the contents of said twenty-four (24) half-barrels, and after due consideration. finds that the allegations of the libel filed in this cause are proved and established as true, and that the said barrels in which the vinegar is contained are and have been misbranded within the meaning and intent of the Act of Congress in such case made and provided, and that said vinegar was shipped from Louisville, in the State of Kentucky, to Ozark, in the State of Alabama and was transported in interstate commerce, and still remains in the original packages; and that said vinegar is of no value for food and contains substances deleterious to health:—

Whereupon, it is Ordered, Adjudged, and Decreed that said twenty-four (24) half-barrels of vinegar are hereby declared to be misbranded in violation of the Act of Congress in such case made and provided, and they are hereby condemned and forfeited, and it is further ordered, as said twenty-four (24) half-barrels of vinegar are not fit for food, and contain matter deleterious to health that the marshal destroy said twenty-four (24) half-barrels of vinegar and the contents thereof as soon as practicable.

The facts which led to the filing of the libel were as follows:

During the month of April, 1909, an inspector of the United States Department of Agriculture found in the possession of the M. O. Carroll Grocery Company, at Ozark, Alabama, 26 half-barrels of vinegar labeled as above described, which had been shipped to the said company on or about March 6th, 1909, by the firm of Knadler & Lucas, from Louisville, Ky. The sample taken from the above consignment was analyzed in the Bureau of Chemistry of the United States Department of Agriculture, with the following results:

Solids	0.428
Nonsugar solids	.328
Reducing sugar invert	.1008
Polarization direct	.9
Ash	.076
Ash soluble in water	.048
Ash insoluble in water	.028
Alk. insol. ash, cc N. 10 acid 100 cc	8.8
Sol. phos. acid, mgs per 100 cc	1.85
Insol. phos. acid, mgs per 100 cc	1.36

Acid, as acetic	3.24
Volatile acid, as acetic	3.22
Fixed acid, as malic	.020
Lead precipitate	None
Color removed by Fuller's earth	All
Ratio of ash to nonsugar solids	4.31

In the opinion of the Department of Agriculture, vinegar or cider vinegar is the product made by the alcoholic and subsequent acetous fermentations of the juice of apples and contains not less than four grams of acetic acid in 100 cubic centimeters. The above analysis having disclosed a misbranding of the product, the Secretary of Agriculture, on April 16, 1909, reported the facts to the United States Attorney for the Middle District of Alabama, who filed the above libel, with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

I. S. No. 11748-a.
F. & D. No. 253.

Issued February 23, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 170, FOOD AND DRUGS ACT.

MISBRANDING OF CORN MEAL.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the Rules and Regulations for the enforcement of the Act, notice is given that on the 30th day of September, 1909, in the District Court of the United States for the Southern District of Ohio, judgment was entered in the case of the United States against the Sam. W. Weilder Company, a corporation, in a prosecution upon an information in substance charging said defendant corporation with having shipped and delivered for shipment from Cincinnati, Ohio, to Norfolk, Virginia one carload of a certain article of food contained in sacks labeled and branded:

"Old Log Cabin Meal. Fresh Ground Corn Meal. Best Water Ground Style. Legrand, Threadcroft Co. Sole Agents for Eastern Virginia and North Carolina,"

which said meal was misbranded for the reason that said label bore statements regarding said article and the ingredients and substances contained therein which were false and misleading in this that they induced the belief that said meal was ground in a water mill on mill stones or burrs, when in truth and in fact it was ground by the steam roller process, steam power being used.

The defendant pleaded guilty on the above day to the charges contained in said information and the Court imposed on it a fine of $5.00, together with the costs of the prosecution amounting to $17.85.

The facts on which said prosecution was based were as follows:

On or about September 3, 1908, an inspector of the United States Department of Agriculture obtained information that a consignment of meal labeled as above described had been shipped by the Sam. W. Weilder Co. from Cincinnati, Ohio, to Legrand, Threadcroft Co., at

Norfolk, Va., which consignment was there seized in a libel proceeding under section 10 of the Act, and adjudged to be misbranded as alleged in said libel (See notice of judgment No. 44). Previous investigations made by the United States Department of Agriculture had disclosed that the output of the mill where this meal was produced, was not ground by water process or in burr mills, but by steam roller process.

The said Sam. W. Weilder Co. was duly notified that the said meal was misbranded and was given an opportunity to be heard and was heard in regard to said misbranding; and it appearing that there had been a violation of the Act the Secretary of Agriculture on December 9, 1908, reported the facts to the Attorney General by whom the case was in turn referred to the United States Attorney for the Southern District of Ohio, who filed the above information with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

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S. No. 224.
F. & D. No. 589.

Issued March 3, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 171, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF STOCK FEED.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the Rules and Regulations for the enforcement of the Act, notice is given that on the 9th day of June, 1909 in the District Court of the United States for the Southern District of Georgia a judgment was entered in the below entitled case wherein a libel was filed under section 10 of the aforesaid Act alleging in substance that 350 sacks of a product labeled and branded on each sack, "100 lbs. Banner Feed, made by the Quaker Oats Company, Chicago, Illinois," and on tags attached to each sack, "100 lbs. Banner Feed—The Quaker Oats Company, Manufacturers and Distributors, Chicago, Ill. Guaranteed Analysis: Crude Protein 10%, Crude Fat 4%, Crude Fibre 9%, Carbohydrates, Starch and Sugar 63%. Made from Corn, Wheat Flour, Oat Feed and 50 lbs. Cotton Seed Meal per ton," which had been shipped from Baltimore, Maryland to N. Dewald & Co., at Savannah, Georgia, were adulterated and misbranded in that oat hulls constituting 10% of the mixture, were mixed and packed with it so as to lower, reduce and injuriously affect its quality and strength; in that oat hulls have been substituted in part for the oat feed; in that the said labelling was misleading in not indicating the presence of oat hulls. The libel prayed process against all claimants to the above described property and seizure and condemnation of the same. N. Dewald, trading as N. Dewald & Co., appeared as claimant to the said Banner Feed and filed a stipulation admitting the allegations of the libel, whereupon the Court rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DIVISION OF THE SOUTHERN DISTRICT OF GEORGIA.

THE UNITED STATES
vs.
350 SACKS OF BANNER FEED. } Libel in Rem for Condemnation, under Pure Food and Drugs Act.

DECREE.

Upon hearing and considering the above stated libel for condemnation, filed on behalf of the United States against the said 350 Sacks of Banner Feed, under which it

appears from the return of the Marshal that only 267 Sacks were found and seized, and the claim and stipulation filed by N. Dewald & Company, N. Dewald being the sole proprietor, under which the said N. Dewald appears as claimant and owner of said 267 sacks of Banner Feed;

And the said N. Dewald as N. Dewald & Company agreeing that the said 267 sacks of Banner Feed seized as aforesaid under said libel, were subject to seizure and confiscation by the United States on the grounds and for the causes set forth in the libel herein, and that an order shall be at once entered condemning and confiscating the said property to the United States, but reserving the right to pay the costs of this proceeding and to reclaim possession of said property upon furnishing a good and sufficient bond to be approved by the Court, conditioned as provided by law;

It is thereupon ordered and decreed that the said 267 sacks of Banner Feed be, and they are hereby, condemned and confiscated to the United States, upon the grounds and for the causes set forth in said libel; but that upon the said N. Dewald furnishing a good and sufficient bond to be approved by the Court, conditioned as provided by the said Pure Food & Drugs Act of the Congress of the United States, and upon the payment by said N. Dewald of all the costs of this proceeding, the Marshal is authorized and directed to deliver possession of said 267 sacks of Banner Feed over to the said N. Dewald & Company, as the owner thereof.

This 9th day of June, 1909.

EMORY SPEER,
United States Judge.

The facts which led to the filing of the above libel were as follows: On or about May 11, 1909, an inspector of the United States Department of Agriculture found in the possession of N. Dewald & Co. 350 sacks, more or less, of the product as above described which had been manufactured by the Quaker Oats Co., of Chicago, Ill. and shipped from Baltimore, Maryland to the said N. Dewald & Co., at Savannah, Georgia. A sample from the above consignment was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain 10% of oat hulls. The above analysis having disclosed an adulteration and misbranding of the product, the Secretary of Agriculture reported the facts to the United States Attorney for the Southern District of Georgia, who filed the above libel with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

I. S. No. 16976-a.
F. & D. No. 842.

Issued March 3, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 172, FOOD AND DRUGS ACT.

MISBRANDING OF STOCK FEED.

In accordance with the provisions of Section 4 of the Food and Drugs Act of June 30, 1906, and of Regulation 6 of the rules and regulations for the enforcement of the Act, notice is given that on the 26th day of October, 1909, in the District Court of the United States for the Eastern District of Wisconsin, a judgment was entered in the case of the United States against the Charles A. Krause Milling Co., a corporation, a prosecution upon an information, in substance charging said defendant corporation with having shipped and caused to be shipped from the city of Milwaukee, in the state of Wisconsin, to the city of Raleigh, in the state of North Carolina, a quantity of a certain article of food labeled and branded: "100 lbs. Protein 16–18%; Fat 3½–4½%; Carbohydrates 58%; Fibre 12%; Badger Dairy Feed, The Perfect Balanced Ration, Manufactured by Chas. A. Krause Milling Co., Milwaukee, U. S. A," which was misbranded in that said label bore statements regarding said article, and ingredients and substances therein contained, which statements were false and misleading for the reason that the said feed contained less than 16 percent of protein and less than 3½ percent fat.

The defendant pleaded guilty to the above information on the date aforesaid, and was fined $25.

The facts on which this prosecution was based were as follows: On or about February 17, 1909, an inspector in the United States Department of Agriculture purchased from F. B. Philips at Raleigh, North Carolina, a sample of the product labeled as above described, which had been shipped to said dealer from Milwaukee, Wisconsin, by the Charles A. Krause Milling Co. This sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain less protein and less fat than declared on the

label. The said F. B. Philips and the said Chas. A. Krause Milling Co. were duly notified that said product was misbranded in the particulars above stated and were given an opportunity to be heard and were heard in regard to said misbranding.

It appearing from the said analysis that there had been a violation of the Act, the Secretary of Agriculture, on September 9, 1909, reported the facts to the Attorney General, by whom they were referred to the United States Attorney for the Eastern District of Wisconsin, who filed the above information with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

I. S. No. 13438.
F. & D. No. 339.

Issued March 3, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 173, FOOD AND DRUGS ACT.

MISBRANDING OF STOCK FEED.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the Rules and Regulations for the enforcement of the Act, notice is given that on the 29th day of April, 1909, in the District Court of the United States for the Eastern District of Missouri, a judgment was entered in the case of the United States against Hunter Bros. Milling Company, a corporation, a prosecution upon an information in substance charging said defendant corporation with having shipped and delivered for shipment from St. Louis, Mo., to Albany, N. Y., a certain package or sack of cottonseed meal labeled: "The Hunter Brothers Milling Company Pure Cotton Seed Meal, 100 pounds. Guaranteed analysis not less than Ammonia 8%, Protein 41%, Nitrogen 6.50%, Crude fat and oil 9%;" which was misbranded in that the label thereof was false and misleading and so worded as to mislead and deceive the purchaser for the reason that the contents of said package did not contain 9% of crude fat and oil, but contained about 7.61% crude fat and oil. On the above mentioned date the defendant pleaded guilty to the above information and was fined $10.00 and costs.

The facts on which the prosecution was based were as follows:

On or about January 29, 1908 an inspector of the United States Department of Agriculture purchased from the Oneonta Milling Company at Albany, N. Y., a sample of the feed product labeled as above described, which had been shipped to said dealer on or about December 31, 1907 by the Hunter Bros. Milling Co., from St. Louis, Mo. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain 7.61% crude fat and oil.

The said Oneonta Milling Company and the said Hunter Bros. Milling Company were duly notified of said charge and were given an opportunity to be heard and were heard in regard thereto.

It appearing that there had been a violation of the Act, the Secretary of Agriculture on January 20, 1909 reported the facts to the Attorney General, by whom they were referred to the United States Attorney for the Eastern District of Missouri, who filed the above information against the Hunter Bros. Milling Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

S. 242.
F. & D. No. 614.

Issued March 3, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 174, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF A STOCK FEED.

In accordance with the provisions of Section 4 of the Food and Drugs Act, June 30, 1906, and of Regulation 6 of the Rules and Regulations for the enforcement of the Act, notice is given that on the 28th day of October, 1909, in the District Court of the United States for the District of Maryland, a judgment was entered in the below entitled case wherein a libel was filed under Section 10 of the aforesaid Act, alleging in substance that 200 sacks of horse feed, each sack being branded "100 lbs. Mueller's Molasses Grains—Analysis: Crude Protein 10%, Fat 3½%, Carbo Hydrates 48%, Fiber 12%. Ingredients: Molasses, Cottonseed Meal and By-Products of Grains," which had been shipped from Norfolk, Va. to Baltimore, Md., and there found in original and unbroken packages, were adulterated, in that each of said sacks contained 15% of rice hulls, which was a harmful and deleterious substance which injuriously affected the quality and strength of said mixture; and were misbranded, in that each of said sacks was represented to contain a substance consisting of molasses, cottonseed meal and by-products of grain, whereas in truth and in fact the contents of each of said packages consisted of 15% rice hulls.

The libel prayed process against all claimants to the said 200 sacks of stock feed and seizure and condemnation of the same. No claimant having appeared to make answer to said libel, the court rendered its decree of condemnation and forfeiture, in substance and form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

UNITED STATES OF AMERICA
v.
TWO HUNDRED SACKS OF HORSE FEED.

Now comes the United States of America, by John C. Rose, its attorney, and moves for a decree of condemnation of the articles in this case, due notice having been given in compliance with the orders of this Court to any and all persons who may have or

claim any interest in said articles to appear and show cause, if any they have, why a final decree of condemnation should not be passed as prayed in an information heretofore exhibited in this cause and no person having appeared or shown cause why such decree should not be passed, although the time within which cause must be shown has expired.

JOHN C. ROSE,
United States Attorney.

Upon the aforegoing motion of the United States, by John C. Rose, its attorney, it appearing to the District Court of the United States for the District of Maryland that no one has appeared showing cause why a decree of condemnation should not be passed as prayed in the information filed in this cause, although due notice for all such persons was duly given and the time within which cause must be shown has expired.

Now, therefore, it is hereby ordered, adjudged and decreed by the District Court of the United States for the District of Maryland this twenty-eighth day of October, 1909, that the property mentioned in the said information be, and the same is, hereby condemned, and all right, title and interest of any and all persons therein are hereby adjudged and ordered to have been, and they are, hereby forfeited to the said United States of America.

On November 8, 1909, the court further ordered the destruction of the above described property, which order is as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE DISTRICT OF MARYLAND.

UNITED STATES OF AMERICA
v.
TWO HUNDRED SACKS OF HORSE FEED.

Whereas, it is charged in the libel heretofore filed in this cause that the horse feed in question is adulterated within the meaning of an Act of Congress approved June 30th, 1906, commonly called the Food and Drugs Act; and,

Whereas, a final decree of condemnation of said horse feed was passed on the twenty-eighth day of October, 1909; and,

Whereas, by the said decree of condemnation all right, title and interest of any and all persons in said horse feed was forfeited to the United States of America; and,

Whereas, it would seem that an order for the destruction of said horse feed should be passed in this cause rather than an order for its sale, by reason of the fact that the adulteration of the said horse feed injuriously affects the quality and strength of same and renders it less fit for the purpose for which it was to be used than unadulterated horse feed would be:

Now, therefore, it is hereby ordered and adjudged by the District Court of the United States for the District of Maryland, this eighth day of November, 1909, that the said horse feed shall be completely destroyed by John F. Langhammer, United States Marshal for the District of Maryland, on the tenth day of November, 1909, or so soon thereafter as the said Marshal can conveniently complete such destruction.

The facts which led to the seizure and destruction of this product were as follows:

On or about June 14, 1909, an Inspector of the United States Department of Agriculture found in the possession of Joseph W. Hellman, at 518 Pratt Street, Baltimore, Md., 200 sacks of product labeled as above described, which had been shipped by E. P. Mueller

from Norfolk, Va. A sample taken from this consignment was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain about 15% of rice hulls. The analysis having thus disclosed an adulteration and a misbranding of the product, the Secretary of Agriculture on June 15, 1909, reported the facts to the United States Attorney for the District of Maryland, who filed the above libel with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

I. S. No. 19571-a.
F. & D. No. 594.

Issued March 3, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 175, FOOD AND DRUGS ACT.

ADULTERATION OF WATER.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of August, 1909, in the Police Court of the District of Columbia, judgment was entered in the case of the United States against Frank M. Finley, trading as F. H. Finley & Sons, a prosecution upon an information in substance charging said defendant with having sold and offered for sale in the District of Columbia 24 bottles of a liquid substance intended for use as drink by man, labeled "Diamond Distilled Water," which was adulterated in that it was injurious and deleterious to health and contained poisonous and deleterious ingredients, and consisted wholly or in part of filthy, decomposed, and putrid vegetable substances. The defendant pleaded not guilty to the above information, and the case was tried on August 4 and 5, 1909. After hearing the testimony and arguments of counsel, the court found the defendant guilty as alleged in the information and imposed upon him a fine of $10.

The facts upon which the above prosecution was based were as follows:

An inspector of the United States Department of Agriculture purchased a sample of the water labeled as above described from F. H. Finley & Sons, 208 Massachusetts Avenue, N. E., Washington, D. C. This sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain the colon group of organisms. The analysis having disclosed an adulteration of said water, F. H. Finley & Sons were duly notified of the results obtained, and were given an opportunity to be heard and were heard

in regard to said adulteration. It appearing that there had been a violation of the act, the Secretary of Agriculture, on May 19, 1909, reported the facts to the Attorney General. The case was then referred to the United States Attorney for the District of Columbia, who filed the above information, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

I. S. No. 4053.
F. & D. No. 213.

Issued March 3, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 176, FOOD AND DRUGS ACT.

ADULTERATION OF CONFECTIONERY—"SILVER DRAGEES."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* Oriental Dragee Company, a prosecution lately pending in the District Court of the United States for the District of New Jersey against the said Oriental Dragee Company for violation of section 2 of the aforesaid act in the shipment from New Jersey to New York of confectionery, commonly known as "silver dragees," which was adulterated in that it contained a mineral substance, namely, metallic silver.

On December 19, 1908, the United States Attorney for the District of New Jersey filed an information in the above stated court against the Oriental Dragee Company, of Jersey City, New Jersey, in substance and in form as follows:

UNITED STATES OF AMERICA,
District of New Jersey, ss:

In the District Court of the United States for the District of New Jersey, in the Third Judicial Circuit, of the September Term, in the year of our Lord one thousand nine hundred and eight.

Be it remembered, That John B. Vreeland, Attorney of the United States of America for the District of New Jersey, who for the said United States in this behalf prosecutes, in his own proper person comes here into the District Court of the United States for the District aforesaid, on this 19th day of December, in this same term, and for the said United States gives the Court here to understand and be informed that The Oriental Dragee Company, a corporation of the State of New Jersey, and conducting and carrying on business at Jersey City, in the State of New Jersey, and having an office at Number 12 Bayview Avenue, at Jersey City, in said State of New Jersey, on the thirty-first day of July, nineteen hundred and seven, at Jersey City, in the State of New Jersey, in the District of New Jersey, and within the jurisdiction of this Court, did wilfully and unlawfully deliver for shipment and ship, and cause to be transported in interstate commerce from the State of New Jersey to the State of New York, an article of food which was adulterated within the meaning of the act of Congress, entitled "An

Act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines or liquors, and for regulating the traffic therein, and for other purposes," approved on the thirtieth day of June, one thousand nine hundred and six (thirty-four statutes at large, page seven hundred and sixty-eight), in that the said The Oriental Dragee Company, on the day and year last aforesaid, and within the jurisdiction aforesaid, did ship from Jersey City, in the State of New Jersey, and did cause to be delivered to E. W. Dunstan Company, in the City of New York, in the State of New York, a large quantity, to wit, twenty-five boxes of Argente Moyens Assortis, or Silver Dragees, which said Argente Moyens Assortis or Silver Dragees was an article of food, that is to say, was confectionery, and was adulterated within the meaning of the act aforesaid, in that being confectionery as aforesaid the same contained a mineral substance, to wit, forty-eight [hundredths] per centum of metallic silver; and in that the said confectionery, known as "Silver Dragees" was coated with silver, being a mineral substance, and which formed a constituent part of the said confectionery, the said The Oriental Dragee Company then and there well knowing that the said confectionery was an article of food and was so adulterated; against the peace and dignity of the said United States, and contrary to the form of the statute in such case made and provided.

Whereupon the said Attorney of the United States, who prosecutes as aforesaid, for the said United States, prays the consideration of the Court here in the premises, and that due process of law may be awarded against it, the said corporation The Oriental Dragee Company, in this behalf, to make it answer to the said United States concerning the premises aforesaid.

JOHN B. VREELAND,
United States Attorney.

To this information the defendant, Oriental Dragee Company, entered its plea of not guilty, but subsequently, on February 27, 1909, by leave of court first had and obtained, withdrew its said plea and filed its demurrer to the information for reasons therein stated as follows:

I. That it appeareth by said information that there is no allegation that the said "Silver Dragees" contained terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt, or spirituous liquor or compound or narcotic drug, in violation of the form and substance of the statute in such case made and provided.

II. That it appeareth by said information that there is no allegation that the said "Silver Dragees" contained an ingredient deleterious or detrimental to health, in violation of the form and substance of the statute in such case made and provided.

III. That it appeareth by said information that there is no allegation that the said "Silver Dragees" contained any mineral substance deleterious or detrimental to health in violation of the form and substance of the statute in such case made and provided.

IV. That it appeareth by said information that there is no allegation that the said "Silver Dragees" were misbranded in violation of the form and substance of the statute in such case made and provided.

Thereafter, and on April 5, 1909, the demurrer came duly on for argument, and was argued, and the court, having taken the matter under advisement, on April 10, 1909, overruled the demurrer and filed its opinion thereon as follows:

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY.

UNITED STATES OF AMERICA
vs.
ORIENTAL DRAGEE COMPANY.
} On demurrer to information.

WALTER H. BACON, *Assistant District Attorney for the United States.*
L. T. FETZER, *for the Defendant.*

CROSS, *District Judge:*

Omitting the formal parts, the information alleges that the defendant, a corporation of New Jersey, and carrying on business at Jersey City, within said state, on July 31, 1907, at Jersey City, aforesaid, and within the jurisdiction of this court, did wilfully and unlawfully deliver for shipment, and ship and caused to be transported in interstate commerce from the State of New Jersey to the State of New York, an article of food which was adulterated within the meaning of the act of Congress, entitled, "An Act for preventing the manufacture, sale or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines or liquors, and for regulating the traffic therein, and for other purposes," approved June 30, 1906, in that the said defendant on the day and year aforesaid, and within the jurisdiction of this court, did ship from Jersey City in the State of New Jersey, and did cause to be delivered to E. W. Dunstan Company, in the City of New York, in the State of New York, a large quantity, to wit, twenty-five boxes of Argente Moyens Assortis or Silver Dragees, which said Argente Moyens Assortis or Silver Dragees was an article of food, that is to say, was confectionery and was adulterated within the meaning of the act aforesaid, in that being confectionery as aforesaid, the same contained a mineral substance, to wit, forty-eight [hundredths] per centum of metallic silver, and in that the said confectionery known as "Silver Dragees" was coated with silver, being a mineral substance and which formed a constituent part of the said confectionery; the said defendant then and there well knowing that the said confectionery was an article of food and was so adulterated. Then follow the usual formal statements. As will have been observed, the information is founded upon what is popularly known as the "Pure Food Act" (34 Stat. 768; Supp. Comp. Stat. 1907, p. 928). The material parts of the act pertinent to the present controversy, will be found in Section 7, and are as follows:—"That for the purposes of this act an article shall be deemed to be adulterated * * * in the case of confectionery if it contains terra alba, barytes, talc, chrome yellow, or other mineral substance or poisonous color or flavor, or other ingredient deleterious or detrimental to health, or any vinous, malt, or spirituous liquor or compound or narcotic drug." The defendant has demurred to the information, claiming, among other things, that silver, with which the confectionery in this case is alleged to have been adulterated, is not a mineral substance of like character, with those specifically mentioned in the act; that the information does not allege that the adulterant, to wit, silver, is an ingredient deleterious or detrimental to health, or that the strength and purity of the confectionery falls below the professed quality or standard under which it is sold. As I construe the section in question so far as it relates to the confectionery, it contains five classes of prohibited articles; the introduction of any designated ingredient of either of which violates the act; that is to say, the act would be violated if the confectionery contained terra alba, barytes, talc, chrome yellow or other mineral substance, or if it contained any poisonous color or flavor, or if it contained any other ingredient deleterious or detrimental to health; or if it contained any vinous, malt or spirituous liquor or compound thereof, or lastly, if it contained any narcotic drug. If the construction suggested is correct, then it was unnecessary that the pleader should aver that silver, the mineral substance alleged to have been introduced in this case, was "deleterious or detrimental to health." Those words are limited to the term "ingredient," they qualify that word only, and not any pre-

ceding word or words. If a comma had been interposed after the word "ingredient," the construction would perhaps have been different. The introduction into confectionery of mineral substances, is, in my judgment, therefore prohibited irrespective of the presence or absence of any poisonous, deleterious or detrimental quality; they are prohibited because they are adulterants, and for that reason only. Coloring or flavoring matter however, may be introduced provided it is not poisonous, but any other ingredient, although not theretofore specified or classified, which is deleterious or detrimental to health, is prohibited. Certain specified articles are, by the first clause quoted, inferentially denominated minerals, and their use is prohibited; then to the specific mineral substances whose use is thus prohibited, is added "or any other mineral substance." The information in brief, alleges that confectionery was shipped by the defendant and delivered in interstate commerce; that such confectionery was adulterated by having in it as one of its constituent parts silver, which is alleged to be a mineral substance. Assuming, because it is admitted by the demurrer, that silver is a mineral substance, its introduction into confectionery as an ingredient, which is also admitted, brought the confectionery within the prohibition of the statute, once it was shipped in interstate commerce. It is urged, however, that silver is not of the class of the specified mineral substances, whose use is prohibited. It must be borne in mind nevertheless, that we are considering an act which relates to the adulteration of food products of which confectionery is one. Silver is a mineral incapable of assimilation through the stomach. It will not yield to the processes of digestion. One of the main purposes of the act is to prevent the introduction of such substances into food products. The title of the act embraces adulterated foods as completely as it embraces misbranded foods, or poisonous foods, or deleterious foods. It refers to each class separately and in the alternative, and the act deals with each class. Technical rules of construction must give way to the avowed purpose and intention of an act. If it be that an act admits of more than one construction, then that one will be adopted, which best serves to carry out the purpose of the act. Hence I do not feel warranted in permitting the doctrine of *ejusdem generis* or other technical rule of construction to limit the scope of the act. If silver may be used, as claimed, to beautify the confectionery, why not lead to give it weight. The language under consideration is clear and does not require for its construction, the application of technical rules. To yield to the construction of defendant's counsel would open the door for the emasculation of the act.

As to the contention that it was necessary to allege that by the use of silver the strength and purity of the confectionery fell below the professed quality or strength under which it was sold; it is only necessary to say that that clause of the act applies to drugs and to drugs only. It is found in the paragraph dealing with drugs and precedes that which relates to confectionery, which in turn precedes the clause relating to food. Each paragraph is dealt with separately. The clause referred to can not be read into that part of the act which relates to confectionery. It is no part of it.

The demurrer will be overruled.

JOSEPH CROSS,
Judge.

The case having come on for trial on the issues raised by the allegations in the information and the defendant's plea of not guilty, was submitted to a jury on June 22, 1909, and the jury having heard the evidence, argument of counsel, and charge of the court, returned its verdict finding the defendant guilty. Thereafter, and on June 28, 1909, the court sentenced the defendant to pay a fine of $100.

The facts in the case were as follows:

On November 19, 1907, an inspector of the Department of Agriculture purchased from the E. W. Dunstan Company, 143 Chambers

Street, New York, N. Y., a sample of an article of confectionery contained in packages labeled "Silver Dragees, Argente Moyens Assortis. Made in Jersey City N. J. U. S.", which was part of a shipment made to said Dunstan Company by the Oriental Dragee Company from Jersey City, New Jersey, on July 31, 1907. This sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain forty-eight hundredths per cent of metallic silver.

It appearing from the aforesaid analysis that the article was adulterated within the meaning of section 7 of the aforesaid act in that it was confectionery and contained a mineral substance, namely, metallic silver, the Secretary of Agriculture, on April 9, 1908, gave notice to the E. W. Dunstan Company, the dealers from whom the sample was purchased, as well also as to the Oriental Dragee Company, the manufacturer and shipper of the article, and gave them an opportunity to be heard, and they were heard, and it appearing that the act had been violated by the Oriental Dragee Company, the party solely responsible for the adulteration of the said article, the said Secretary, on November 9, 1908, reported the facts and evidence to the Attorney General by whom they were referred to the United States Attorney for the District of New Jersey who filed an information, as aforesaid, against the Oriental Dragee Company with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

S. No. 48.
F. & D. No. 96.

Issued March 3, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 177, FOOD AND DRUGS ACT.

MISBRANDING OF COFFEE.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the Act, notice is given of the judgment of the Court in the case of the United States v. 36 cases of Coffee, a proceeding of libel under section 10 of the aforesaid Act in the District Court of the United States for the Northern District of Georgia, for seizure, condemnation, and forfeiture of said 36 cases of coffee which were misbranded within the meaning of section 8 of the Act in that they were labeled and branded: "Luzianne Coffee" whereas they contained a mixture of coffee and chicory. The United States Attorney for said District having filed a libel in the above stated Court praying condemnation and forfeiture of the said 36 cases of coffee for the reason above stated, and the Reily-Taylor Company of New Orleans, La., manufacturers and shippers of said coffee, having entered its claim thereto and admitting and confessing the misbranding of the coffee as alleged in the libel, on October 5, 1908 the Court rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES, EASTERN DIVISION, NORTHERN DISTRICT OF GEORGIA.

THE UNITED STATES *vs.* THIRTY SIX CASES LUZIANNE COFFEE, THE REILY-TAYLOR COMPANY, Claimant.	No. 3. In Rem. Final Decree.

By consent of all the parties this case was heard by the Court of Atlanta, on this day, and the claimant, The Reily-Taylor Company appearing in court by counsel and admitting and confessing that the goods in question, to-wit, thirty six cases Luzianne coffee were misbranded as alleged in the Libel of Information, and the said claimant now consenting that judgment and decree be accordingly made by the Court, it is considered adjudged and decreed by the Court that the said thirty six cases of Luzianne Coffee in said Information mentioned be, and the same are, condemned as misbranded

for the cause in said Information set forth; but it further appearing to the Court that the said thirty-six cases of Luzianne Coffee have been, in accordance with the Act of June 30, 1906, released to the said Reily-Taylor Company, Claimant, upon said Company's having given bond in the sum of Five Hundred Dollars, conditioned to the effect that said coffee shall not be sold or otherwise disposed of contrary to the provisions of said Act of June 30, 1906, or to the laws of any State, Territory, District, or Insular Possession; and the said Company having also given bond conditioned for the payment of the costs with the United States Fidelity and Guaranty Company as surety on both of said bonds, it is further ordered and adjudged that the United States recover of the said Reily-Taylor Company, as principal, and the said United States Fidelity and Guaranty Company, as surety, the sum of —— dollars, the costs of this proceeding, to be paid within twenty days from the date of this decree, and in default thereof, execution be, and the same is, hereby awarded.

In open Court this the 5th day of October, 1908.

WM. T. NEWMAN,
U. S. Judge.

The facts in the case were as follows:

On or about May 27, 1908, an inspector of the United States Department of Agriculture found in the possession of Talmadge Bros. & Company, Athens, Ga., 36 cases of an article of food labeled and branded: "Luzianne Coffee" which had been shipped to said Talmadge Bros. & Co. on or about May 26, 1908 from New Orleans, La., by the Reily-Taylor Co. Each of the aforesaid 36 cases contained 50 one-pound cans of ground coffee and was labeled: "Luzianne Roasted Coffee and Chicory, The Reily-Taylor Co. importers and roasters, New Orleans, U. S. A." The article being a mixture of coffee and chicory and not pure coffee as represented by the labels on the said 36 cases, it was apparent that it was misbranded within the meaning of section 8 of the Food and Drugs Act.

Accordingly, on May 27, 1908, the Secretary of Agriculture reported the facts to the United States Attorney for the Northern District of Georgia, who filed a libel for seizure, condemnation, and forfeiture of the said coffee with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

S. No. 61.
F. & D. No. 151.

Issued March 3, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 178, FOOD AND DRUGS ACT.

MISBRANDING OF CANNED CHERRIES.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 30 cases of cherries, a proceeding of libel under section 10 of the aforesaid act, instituted on August 10, 1908, in the District Court of the United States for the Eastern District of Oklahoma, for seizure, condemnation, and forfeiture of said cases of cherries, which were misbranded within the meaning of section 8 of the act in this, that the contents of said cases were stated in terms of weight, but were not correctly stated, in that the cases were labeled and branded: "2 Doz. 2 Lb. Dunkley's Michigan Fruits Cupid Cherries. Dunkley Company, Kalamazoo, Mich.", thereby representing that each case contained 24 cans of cherries, the contents of each can weighing 2 pounds, and that each case contained in the aggregate 48 pounds of cherries, whereas each of the said cans contained less than 2 pounds of cherries, that is to say, from 25 to 28 ounces, and each case contained less than 48 pounds of cherries, that is to say, not more than 42 pounds.

On the aforesaid date the United States Attorney filed a libel in the aforesaid court praying seizure, condemnation, and forfeiture of the said cases of cherries for the reason above stated. Process of attachment and seizure was duly issued, and executed by the marshal seizing the said 30 cases of cherries then in the possession of the consignee, the Ratcliff Sanders Grocer Company, Tulsa, Okla., the cherries having been shipped from Kalamazoo, Mich., by the Michigan Vacuum Canning Company on or about April 20, 1908. Due and formal notice of the filing of said libel and attachment of the said cases thereunder having been given to the Ratcliff-Sanders Grocer Company and all others in interest, but no claimant having appeared, and the case having come on for final hearing upon the allegations of

the libel, the court found the cherries misbranded and rendered its decree of condemnation, forfeiture, and sale of said cherries in substance and in form as follows:

In the United States District Court for the Eastern District of Oklahoma.

The United States of America, *Informant*,
vs.
Thirty Cases of Cherries.

Now on this day came on to be heard in open court the petition of William J. Gregg, United States Attorney in and for the Eastern District of Oklahoma, by John B. Meserve, Assistant United States Attorney, asking that an order be made adjudging and decreeing that the articles of food set forth in said petition be condemned and that an order be made directing the United States Marshal of the Eastern District of Oklahoma to sell the same; said articles of food being canned cherries, canned and designed for food for persons, aggregating thirty (30) cases, that is thirty (30) cases containing each two dozen cans of canned cherries. And the Court being well and sufficiently informed and advised in the premises doth find that said canned cherries aggregating thirty (30) cases each case containing two dozen cans of canned cherries, each case labeled "2 Doz. 2 Lb. Dunkley's Michigan Fruit Cupid Cherries. Dunkley Company, Kalamazoo, Mich." and not otherwise meaning, and the said manufacturers by said label meaning, declaring and publishing and intending thereby to publish that each of said cases contains forty-eight (48) lbs. avoirdupois of such Cupid brand of cherries canned for food for man, and the Court doth find that said articles of food are misbranded and that the said cases and each of them are in package form bearing on the outside of each package the aforesaid labels, which are statements in terms of weight as to the weight of the cherries contained in each of said cases, and that said weights are not plainly and correctly stated on the outside of said cases or packages. That said labels and brands are false in that said cases and each of them contain cherries weighing less than forty-eight (48) pounds in the aggregate and that none of said cases contain forty-eight pounds of said cherries.

And the Court doth find that on or about April the 20th, 1908, said thirty cases of cherries were transported from Kalamazoo in the state of Michigan to the city of Tulsa, state of Oklahoma, in interstate commerce to-wit, by way of Michigan Central R. R. and St. Louis & San Francisco R. R., and having been so transported remain unsold and in original unbroken packages in possession of the Ratcliff-Sanders Grocer Company, and that said fruit was misbranded as aforesaid before and at the time of said transportation and so remains. And the Court doth find that said Thirty Cases of Cherries have been seized for condemnation and confiscation and are now held by the United States Marshal under orders of the Court heretofore issued, and the Court doth find that citation was properly issued and served and due notice given to the Ratcliff-Sanders Grocer Company and that due notice was generally given to all persons having or pretending to have any right in the property above mentioned, by publication in the Tulsa World for a period of twenty (20) days.

It is therefore ordered that the United States Marshal for the Eastern District of Oklahoma sell said Thirty Cases of Cherries at public auction at the wholesale house of the Ratcliff-Sanders Grocer Company at Tulsa in Tulsa County, Oklahoma, for cash in hand upon giving ten (10) days notice of such sale by posting a notice of the time, place and conditions of said sale at the front door of the ware-house of said Ratcliff-Sanders Grocer Co. at Tulsa and also at the front door of the post-office of Tulsa, Oklahoma, and by publishing for ten days in the Tulsa World, a weekly paper published at Tulsa, Oklahoma; and that said sale be made at the ware-house of said Ratcliff-Sanders Grocer Company at Tulsa, Oklahoma, between the hours of ten o'clock a. m. and four o'clock p. m., and that a venditioni exponas issue accordingly;

and that the Marshal, from the proceeds of said sale, pay all expenses incurred in connection with this proceeding paying the balance, if any, to the Clerk of this Court, and that the United States Marshal make due return of his action in the premises.

RALPH E. CAMPBELL,
Judge.

The facts in the case were as follows:

On or about August 8, 1908, an inspector of the United States Department of Agriculture found in the possession of the Ratcliff-Sanders Grocer Company, Tulsa, Okla., 30 cases of canned cherries, each case containing 2 dozen cans and labeled and branded: "2 Doz. 2 Lb. Dunkley's Michigan Fruits Cupid Cherries. Dunkley Company, Kalamazoo, Mich." The said cherries had been shipped on or about April 20, 1908, to said Ratcliff-Sanders Grocer Company by the Michigan Vacuum Canning Company from Kalamazoo, Mich. An inspector of the United States Department of Agriculture had previously weighed a number of cans representative of those contained in the aforesaid 30 cases and had found that the weight varied from 25 to 28 ounces and that none of the cans weighed 2 pounds. It therefore appeared that the cases of cherries were misbranded within the meaning of section 8 of the Food and Drugs Act in that the weight being stated on the cases, was incorrectly stated. Accordingly, on August 10, 1908, the Secretary of Agriculture reported the facts to the United States Attorney for the Eastern District of Oklahoma, who immediately filed a libel praying seizure, condemnation, and forfeiture of the said cherries, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

S. No. 235.
F. & D. No. 600.

Issued March 3, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 179, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF COTTONSEED FEED MEAL.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 18th day of June, 1909, in the District Court of the United States for the Western District of North Carolina, judgment was rendered in the case of the United States *v.* 120 Sacks of Cottonseed Feed Meal, wherein a libel was filed under section 10 of the aforesaid act, alleging in substance that 120 sacks of a product designated as cottonseed feed meal and labeled: "Creamo Brand Feed Meal. Manufactured by the Tennessee Fibre Co., Memphis, Tenn. Guaranteed Analysis—Protein 22%, Fat 5%, Crude Fibre 28%," which had been shipped from Memphis, Tenn., to Asheville, N. C., and there found in original unbroken packages, were misbranded in that the label on said sacks represents the product to contain protein 22 per cent, fat 5 per cent, crude fibre 28 per cent, when in truth and in fact but 18.73 per cent of protein, 4.69 per cent fat, and 25.04 per cent crude fibre, and approximately 50 per cent cottonseed hulls were present in said product, and were adulterated in that the said contents were designated as cottonseed feed meal with intent to deceive and mislead the purchaser as to its quality.

The libel prayed process against all claimants to said feed meal, and seizure and condemnation of the same.

The Asheville Grocery Company appeared as respondent in the above proceedings, whereupon the court, after the parties had agreed to make statements of their evidence, found for the libelant and rendered the following decree:

IN THE DISTRICT COURT OF THE UNITED STATES, WESTERN DISTRICT OF NORTH CAROLINA. AT ASHEVILLE.

UNITED STATES OF AMERICA
vs.
120 SACKS OF COTTON SEED FEED MEAL.

DECREE OF CONDEMNATION.

This cause coming on to be heard, and it appearing to the Court that upon the Libel filed herein, Warrant of Arrest was duly issued and served on the 7th day of June,

1909, and that by virtue of said Warrant, the Marshal has seized and now holds 116 sacks of Cotton Seed Feed Meal of the approximate value of $200.00 the said 116 Sacks of Cotton Seed Feed Meal, having been seized from the premises and in the possession of the Asheville Grocery Co. a partnership formed and doing business in the city of Asheville, N. C., within the said District and that the said Cotton Seed Feed Meal is now in storage and in the custody of the said Marshal; and it appearing that the Asheville Grocery Co. the respondent herein the owners of the said 116 bags of Cotton Seed Feed Meal, so seized were duly warned to appear herein and that due and legal notice and proclamation was given to all persons having or claiming to have any right, title or interest therein or in or to said property, to appear and answer said libel, and that said Asheville Grocery Co. have so appeared; the libelant and respondent each making a statement to the Court of their evidence and agreeing in open court to submit the same to the Court and the court being now fully advised in the premises, finds for the libelant and finds that the said 116 sacks of Cotton Seed Feed Meal contains articles of food and that the said sacks are misbranded within the meaning of the Act of Congress of June 30, 1906, the same having been transported in interstate commerce from the City of Memphis, Tenn., consigned to the Asheville Grocery Co., at Asheville, N. C., being all of such consignment found in original unbroken packages, that is, the Court finds that the said articles of feed are misbranded in violation of the said Act of Congress in that said sacks and each of them contain Protein 18.73% Fat 4.69% Crude Fibre 25.04% and contain approximately 50% hulls, and that the said articles of feed were transported in interstate commerce and consigned and delivered to the claimant aforesaid, Wholesale dealers at Asheville, N. C.

The Court further finds that the articles of feed contained in said 116 Sacks of Cotton Seed Feed Meal is not adulterated, poisonous or deleterious, but that the violation of said Act of Congress is in the misbranding of the said sacks and that the same were consigned only to a wholesale dealer and not sold to the public for consumption.

Wherefore it is Ordered, adjudged and decreed by the court that the said 116 sacks of Cotton Seed Feed Meal with the contents as aforesaid, be and they are hereby declared to be misbranded in violation of the Act of June 30th, 1906, as is charged in said libel, and it is further ordered that the said 116 Sacks of Cotton Seed Feed Meal, with the contents as aforesaid, be, and they hereby are condemned and forfeited as provided for in the said Act of June 30, 1906. It is provided, however, that upon the payment of all the costs in the proceeding herein including all Court, Clerk's and Marshal's costs and costs of hauling, storage, watchmen and all other costs incident to or contracted in this proceeding, and the execution and delivery by the said Asheville Grocery Co. to the libelant of a good and sufficient bond in the penalty of $250.00, conditioned that the said Sacks of Cotton Seed Feed Meal, with the contents as aforesaid shall not be sold, or otherwise disposed of, contrary to the provisions of the said Act of June 30, 1906, or to the laws of any state, territory, district, or insular possession, that the said Marshal shall redeliver the said 116 Sacks of Cotton Seed Feed Meal with such of their contents as they now contain or may contain at the time of such redelivery to the Asheville Grocery Co. in lieu of the retention and destruction thereof;

The Clerk of this court will attach the costs in accordance with this order and furnish a copy thereof to claimants.

This June 18, 1909.

WM. T. NEWMAN,
U. S. Judge presiding.

We consent to this decree:

THOS. J. RICKMAN, *Atty. for claimant.*

A. L. COBLE, *Asst. U. S. Atty.*

The facts preceding the filing of the above libel were as follows:

On or about June 4, 1909, an inspector of the United States Department of Agriculture found in the possession of the Asheville Grocery Company, in original unbroken packages, 120 sacks of the product labeled as above described, which had been sold, invoiced, and shipped as cottonseed feed meal to the said company by the Tennessee Fibre Company, of Memphis, Tenn. A sample taken from the above consignment was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain protein 18.73 per cent, fat 4.69 per cent, crude fibre 25.04 per cent, and hulls, approximately, 50 per cent. The misbranding and adulteration disclosed by this analysis was reported by the Secretary of Agriculture, on June 5, 1909, to the United States Attorney for the Western District of North Carolina, who filed the above libel, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

I. S. No. 23.
F. & D. No. 95.

Issued March 3, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 180, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"GOWAN'S PNEUMONIA CURE."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on December 16, 1908, in the District Court of the United States for the Northern District of Illinois, a judgment was rendered in the case of the United States *v.* Gowan Medical Company, a corporation organized and existing under the laws of the State of North Carolina and transacting business through a branch office at Chicago, Ill., a prosecution upon an information in substance charging said defendant corporation with having delivered to the Baltimore and Ohio Railroad Company, at Chicago, Ill., for shipment to Washington, D. C., four cases of a certain drug called "Gowan's Pneumonia Cure," which was misbranded in the following particulars, viz:

1. On a green circular inclosed in the carton and surrounding each of the bottles containing this drug, and thereby made a part of the labels descriptive of the said preparation, occurred this statement: "It is entirely different from any other remedy, containing new principles never before applied; consequently, it cannot be substituted;" which said statement was then and there false and misleading in this, that all the ingredients in said preparation were and are well and commonly known and are constantly applied, singly or in combination, in the very manner directed by the instructions accompanying this preparation, and commonly used for the affections of the lungs, throat, and other portions of the body similarly affected.

2. On a green circular inclosed in the carton and surrounding each of the bottles containing this drug, and thereby made a part of the labels descriptive of said preparation, occurred this statement: "Supplies an easily absorbed food for the lungs that quickly effects a permanent cure;" which statement was false and misleading in this, that there is no such thing as a food for the lungs separate and apart from a food that nourishes the whole body.

3. On a white circular also inclosed in the carton and surrounding each of the bottles containing the drug, and thereby made a part of the labels descriptive of said preparation, occurred this statement: "It was endorsed and advertisement accepted by the American Medical Journal, as a valuable therapeutic agent;" which statement was false and misleading in this, that the said preparation was never advertised in the American Medical Journal and was never endorsed by the said American Medical Journal.

The information charged a further misbranding in that the labels printed upon the cartons containing the bottles filled with this preparation did not bear a statement of the quantity of opium contained in said preparation in a manner that could be easily read by the purchaser; but the statement of the amount of opium contained therein was printed in inconspicuous type in such an inconspicuous place that the proper notice of the poisonous contents of said preparation was not easily conveyed to the purchaser or person to whom it might be transferred.

On the aforesaid date, the defendant pleaded guilty to the above information and was fined $200. The facts on which the prosecution was based were as follows:

On November 22, 1907, an inspector of the United States Department of Agriculture purchased from the Washington Wholesale Drug Exchange a sample of a drug preparation labeled and branded as above described, which had been shipped to said Exchange by the Gowan Medical Company from Chicago, Ill., on or about November 18, 1907. This sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and was found to consist of stearin, lard, turpentine, camphor, phenol, quinine sulphate, opium, and a trace of quinine alkaloid. The analysis having disclosed a misbranding of the drug, the said Washington Wholesale Drug Exchange and the said Gowan Medical Company were duly notified of the charges and were given an opportunity to be heard and were heard in regard to said misbranding. It appearing that there had been a violation of the act, the Secretary of Agriculture, on May 28, 1908, reported the facts to the Attorney-General. The case was then referred to the United States Attorney for the Northern District of Illinois, who filed the above information, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

I. S. No. 29.
F. & D. No. 129.

Issued March 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 181, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"EYELIN."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 21st day of December, 1908, in the District Court of the United States for the Northern District of Illinois, a judgment was rendered in the case of the United States against the Eyelin Company, a corporation of Chicago, Ill., a prosecution upon an information in substance charging said defendant corporation with having delivered to the United States post-office at Chicago, Ill., for shipment to Washington, D. C., a quantity of a drug preparation contained in a circular tin box, upon one side of which were printed the following words:

One Dollar Repairs and Rejuvenates
Trade Mark EYELIN Registered
The Eye and Sight
The EYELIN CO., Chicago, U. S. A.

and upon the other side of which were printed directions for the use of said drug, said box being surrounded by a circular entitled: "How to Use Eyelin and Your Eyes," which said tin box and surrounding circular were placed in a blue pasteboard box, upon the front of which were placed the following printed words:

Reshapes and Rejuvenates,
Trade Mark EYELIN Registered,
The Eye and Sight.

which said drug was misbranded in the following particulars:

(a) The label printed upon one face of the tin box containing said drug contained this statement: "Repairs and Rejuvenates the Eye

and Sight," which said statement was false and misleading in this, that the perfumed vaseline inclosed in the circular tin box aforesaid, and constituting said preparation, had no properties capable of repairing the eye and the sight; and

(b) The label upon the blue pasteboard box in which the circular tin box containing the drug and the circular were placed contained this statement: "Reshapes and Rejuvenates the Eye and Sight," which statement was false and misleading in this, that the perfumed vaseline inclosed in the said tin box, constituting the preparation, had no properties capable of reshaping and rejuvenating the eye and sight.

On December 16, 1908, the defendant pleaded guilty to the information and the court imposed upon it a fine of $10.

The facts upon which the above prosecution was based were as follows:

On or about February 13, 1908, an inspector of the United States Department of Agriculture purchased from the Eyelin Company, No. 1403 Washington Boulevard, Chicago, Ill., a box of the drug preparation heretofore described, the same being delivered to him at Washington, D. C., through the United States mail. This sample was analyzed in the Bureau of Chemistry, United States Department of Agriculture, and found to consist essentially of perfumed or flavored vaseline, wherefore it was deemed misbranded, and the said Eyelin Company was duly notified of the charge and given an opportunity to be heard, and was heard in regard to said misbranding.

It appearing that there had been a violation of the act, the facts were reported to the Attorney-General on June 25, 1908, by the Secretary of Agriculture. The case was referred to the United States Attorney for the Northern District of Illinois, who filed an information against the Eyelin Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

O

I. S. No. 17623-a.
F. & D. No. 677.

Issued March 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 182, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"BROMO FEBRIN."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 29th day of October, 1909, in the District Court of the United States for the District of Maryland, judgment was rendered in the case of the United States *v.* William H. Smaw, trading as W. H. Smaw & Company, a prosecution upon an information in substance charging said defendant with having shipped from Baltimore, Md., to Detroit, Mich., one dozen packages of a drug called "Bromo Febrin," which was misbranded in this, that the packages containing the same failed to bear a statement of the quantity or proportion of acetanilid contained therein; and which was further misbranded in that said packages bore the following statement: "Each Powder contains 4 Grains of Acetanilid," which said statement was false and misleading for the reason that said powders contained more than 4 grains of acetanilid, viz., nearly 6 grains; and which was further misbranded in this, that said packages bore the statement "Sure Cure for Headache and Neuralgia," which statement was then and there false and misleading because the article in said packages was not a sure cure for headache and neuralgia; and which was further misbranded in this, that said packages bore this statement "Permanent in Results," which statement was false and misleading for the reason that the article contained therein was not permanent in results; and which was further misbranded in this, that the packages containing the same bore this statement "It is Absolutely Safe," which said statement was false and misleading because said drug was not absolutely safe.

The defendant pleaded guilty to the information on the aforesaid date, and the court imposed a fine upon him of $20.

The facts on which the above prosecution was based were as follows:

On or about February 1, 1909, an inspector of the United States Department of Agriculture purchased from the Michigan Drug Company, of Detroit, Mich., a sample of the drug heretofore described, which was contained in a consignment shipped to said dealers from Baltimore, Md., by William H. Smaw, trading as W. H. Smaw & Company. This sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture, and each powder found to contain nearly 6 grains of acetanilid. The analysis having disclosed a misbranding of the drug, the Michigan Drug Company, and the said William H. Smaw, were duly notified thereof and were given an opportunity to be heard, and were heard in regard to said misbranding.

It appearing that there had been a violation of the act, the Secretary of Agriculture, on July 31, 1909, reported the facts to the Attorney-General. The case was thereupon referred to the United States Attorney for the district of Maryland, who filed an information against the said William H. Smaw, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

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O

I. S. No. 9813-a.
F. & D. No. 659.

Issued March 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 183, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF POWDERED COLOCYNTH.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 7th day of October, 1909, in the District Court of the United States for the District of Maryland, judgment was rendered in the case of the United States *v.* Gilpin, Langdon & Company, Inc., a prosecution upon an information in substance charging said defendant corporation with having shipped from Baltimore, Md., to Cincinnati, Ohio, 3 pounds of a certain drug, which was then and there adulterated, in that it was then and there sold under a name, to wit, "Powdered Colocynth," recognized in the United States Pharmacopoeia and National Formulary, and then and there differed from the standard of strength, quality, and purity as determined by the test laid down therein, in this, that the standard of strength, quality, and purity as determined by said test requires that in colocynth ready for use the seeds should be separated and rejected, whereas, the colocynth shipped as aforesaid contained a mixture of pulp and seeds; and which said drug was misbranded in this, that the packages containing the same then and there bore a statement regarding the ingredients and the substances contained therein which was false and misleading for the reason that it represented said drug as consisting of powdered colocynth, whereas, in truth and in fact, said contents consisted of powdered colocynth mixed with a quantity of seeds.

On the aforesaid date the defendant pleaded guilty to the information, and the court imposed upon it a fine of $25.

The facts on which the above prosecution was based were as follows:

On or about August 11, 1908, an inspector of the United States Department of Agriculture purchased a sample of the drug hereto-

fore described from Theodore Rosenthal, Eighth and Vine streets, Cincinnati, Ohio, which sample was contained in a consignment of said drug shipped to said dealer from Baltimore, Md., by Gilpin, Langdon & Company. This sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to consist of the entire fruit, pulp, and seeds, ground. The analysis having disclosed an adulteration and a misbranding of the drug, the said Theodore Rosenthal and the said Gilpin, Langdon & Company were duly notified of said charges, and were given an opportunity to be heard, and were heard, in regard to said adulteration and misbranding; whereupon, it having appeared that there had been a violation of the act, the Secretary of Agriculture, on July 28, 1909, reported the facts to the Attorney-General; the case was then referred to the United States Attorney for the District of Maryland, who filed an information against the said Gilpin, Langdon & Company, Inc., with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

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I. S. Nos. 31 and 37.
F. & D. Nos. 249 and 559.

Issued March 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 184, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"RADOL."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on February 3, 1909; and October 1, 1909, respectively, judgments were rendered in two cases of the United States against Dennis Rupert Dupuis, both prosecutions upon informations identical in terms except as to the dates of the shipments alleged. The first information, in one count thereof, in substance charged the defendant with having shipped from St. Louis, Mo., to Washington, D. C., a certain bottle then and there labeled "This bottle contains Radol (Registered Trade Mark), a radium impregnated fluid prepared according to the formula and under the supervision of Dr. Rupert Wells, St. Louis, Missouri. This fluid is not expected to retain its radio activity beyond forty days from the date of this label. For External use. Name, E. G. Henson. Address, Washington, D. C. Date Feb. 22, 1908. Directions: To be used as directed by letter. Signature, D. R. Wells, M. D. Keep this bottle in a dark cool place."; the contents of which said bottle were misbranded in that the statements upon the label were false and misleading for the reason that said bottle contained a liquid which was not radium impregnated and which had no radio-activity beyond that of ordinary water, and further that the name Dr. Rupert Wells was a false and fictitious name, and that said fluid was not prepared according to the formula of a Dr. Rupert Wells or under his supervision; and in the second count thereof charged said defendant with having shipped from St. Louis, Mo., to Washington, D. C., a certain bottle then and there labeled "This bottle contains Radol (Registered Trade Mark), a radium impregnated fluid prepared according to the formula and under the supervision of Dr. Rupert Wells of St. Louis, Missouri.

This fluid is not expected to retain its radio-activity beyond forty days from date of this label. For internal use. Name, E. G. Henson. Address, Washington, D. C. Date, Feb. 22, 1908. Directions: Take one tablespoonful in a wine glass of water before each meal and at bed time. Signature, D. R. Wells, M. D. Keep this bottle in a cool dark place."; the contents of which said bottle were misbranded in that the label was false and misleading in the following particulars: The said liquid was not radium impregnated and had no radio-activity, and further in that the name Dr. Rupert Wells was a false and fictitious name and that said fluid was not prepared according to the formula of a Dr. Rupert Wells, or under the supervision of a Dr. Rupert Wells, and which was further misbranded in that the said liquid contained approximately 6.99 per cent of alcohol, and that the label upon said bottle did not state the proportion of alcohol contained in said liquid or that the liquid contained any alcohol.

The defendant pleaded guilty to both informations and on the dates aforesaid was fined $100 and $50, respectively.

The facts upon which the prosecutions were based were as follows:

An inspector of the United States Department of Agriculture, upon two occasions, purchased samples of the drug heretofore described from Dennis Rupert Dupuis, St. Louis, Mo. The samples were analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found not to be radium impregnated liquids, not to have any radio-activity beyond that of ordinary water, and to contain approximately 6.99 per cent of alcohol. The analyses having disclosed an apparent misbranding of the liquids, the said Dennis Rupert Dupuis was duly notified thereof in each case and given an opportunity to be heard, and was heard, in regard to said misbranding. Thereupon it appeared that there had been violations of the act, and the Secretary of Agriculture, on December 8, 1908, and April 23, 1909, reported the facts to the Attorney General. The cases were referred to the United States Attorney for the Eastern District of Missouri, who filed the informations against the said Dennis Rupert Dupuis, with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 7, 1910.*

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O

F. & D. Nos. 34-C and 35-C. Issued March 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 185, FOOD AND DRUGS ACT.

ADULTERATION OF CREAM.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the cases of the United States *v.* Elijah E. Blough and United States *v.* Samuel C. Harley, prosecutions in the Police Court of the District of Columbia against the said Blough and Harley for violation of section 2 of the aforesaid act in the sale in said District of cream which was adulterated in that butter fat, a valuable constituent thereof had been abstracted in part therefrom.

The said Elijah E. Blough and Samuel C. Harley were arraigned in the above-stated court on November 10 and 19, 1909, respectively, under informations filed by the United States Attorney charging the aforesaid offenses, and having entered their pleas of guilty, were on said dates each sentenced to pay a fine of $10.

The facts in the cases were as follows:

On October 13, 1909, an inspector of the health department of the District of Columbia, acting under authorization of the Secretary of Agriculture of the United States to Dr. William C. Woodward, health officer of said District, procured a sample from each of two cans of cream which at that time were at the union depot in Washington, D. C., having been shipped by rail from Manassas, Va., by Elijah C. Blough and Samuel C. Harley to Storm & Sherwood, Washington, D. C. The samples were analyzed by the said health department of the District of Columbia and found to contain less than 18 per cent of milk fat, indicating that a part of the milk fat had been abstracted from said cream. It therefore appeared that the cream was adulterated within the meaning of section 7 of the Food and Drugs Act, and the said Blough and Harley were duly notified thereof and were given an opportunity to be heard in reference thereto, and

it appearing that the act had been violated by the said parties the said health officer reported the facts to the United States Attorney for the District of Columbia, who forthwith filed informations in the Police Court of said District against the said Blough and Harley, who appeared in said court on November 10 and 19, 1909, respectively, with the results hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *January 28, 1910.*

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O

F. & D. No. 452.
S. No. 168.

Issued March 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 186, FOOD AND DRUGS ACT.

MISBRANDING OF PEACHES AND APRICOTS.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 74 Cases of Peaches, 255 Cases of Peaches, and 142 Cases of Apricots, a proceeding of libel under section 10 of the aforesaid act for the seizure and condemnation of the aforesaid peaches and apricots lately pending, and finally determined on April 8, 1909, in the District Court of the United States for the Eastern District of Oklahoma by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

On or about February 4, 1909, an inspector of the Department of Agriculture located in the possession of the Cochran Grocery Company, McAlester, Okla., 329 cases, each containing 24 cans of peaches, 74 of which were labeled and branded "2 Doz. 2½ Lbs. California East Side Brand Y F Peaches. Packed by East Side Canning Co., Los Angeles, Calif.", and 255 of which were labeled and branded "2 Doz. 2½ Lbs. California Duck Brand Y F Peaches. Packed by East Side Canning Co., Los Angeles, Calif."; and also 142 cases of apricots which were labeled and branded "2 Doz. 2½ Lbs. Duck Brand Apricots. Packed by East Side Canning Co., Los Angeles, Calif." The goods had been shipped by the J. K. Armsby Company from Los Angeles, Cal., to the Cochran Grocery Company, McAlester, Okla., on or about August 17, 1908. A number of the cans were weighed by the inspector and the average gross weight per can of each brand was found to be 34 ounces. It appeared that the goods were misbranded in violation of section 8 of the act in that the weight of each can was stated on the label as 2½ pounds, which statement was incorrect.

Accordingly, on February 6, 1909, the Secretary of Agriculture notified the United States Attorney for the Eastern District of Oklahoma that the aforesaid 329 cases of peaches and 142 cases of apricots were then in the possession of the above-stated Cochran Grocery Company, of McAlester, Okla., having been shipped as above stated, and that they were misbranded within the meaning of the act. The United States Attorney filed a libel in the District Court of the United States for the Eastern District of Oklahoma, praying seizure, condemnation, and forfeiture of the said peaches and apricots. To this libel no answer was filed by the Cochran Grocery Company or any person having any claim, right, or interest therein, and the case having come on for final hearing, on April 8, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE EASTERN DISTRICT OF OKLAHOMA.

UNITED STATES OF AMERICA, *Informant*,
vs.
SEVENTY-FOUR CASES OF PEACHES, TWO HUNDRED AND FIFTY-FIVE CASES of Peaches, and One Hundred and forty-two cases of Apricots. } No. 98.

DECREE OF CONDEMNATION.

Now to-wit, on the 8th day of April, 1909, at the term of said Court at Tulsa in said District, said case came on for trial and it appeared to the Court that upon the libel filed herein monition and warrant of arrest was duly issued on the 8th day of February, 1909, and served on the 9th day of February, 1909 and that by virtue of said warrant, the Marshal seized forty-nine (49) cases of Peaches, two hundred and sixty-one (261) cases of Peaches and ninety-five (95) cases of Apricots of the approximate value of $500.00, containing two dozen cans to the case, the said cases of said peaches and apricots with contents having been seized within the premises and in the possession of the Cochran Grocery Company, a co-partnership of McAlester within said district, and it appeared that said Cochran Grocery Company, a co-partnership composed of C. W. Cochran and G. C. Cochran, the owners of said cases of peaches and apricots, were duly served herein to appear on the 5th day of April, 1909, and that due and legal notice and proclamation were duly given to all persons having or claiming to have any right or interest therein to said property to appear on the same day and answer to said libel, and the libelant appearing by John B. Meserve, Assistant United States Attorney for the Eastern District of Oklahoma, and neither the Cochran Grocery Company, a co-partnership nor any person having any claim, right or interest therein or to said property appearing, and the Court now being fully advised in the premises finds for the libelant, and finds that the contents of said cases contain peaches and apricots of two dozen cans each, articles of food, and that the said cases are misbranded within the meaning of the Act of Congress of June 30, 1906, entitled "An Act preventing the manufacture, sale or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, liquors and for regulating traffic therein, and for other purposes", and that the same has been transported as peaches and apricots in interstate commerce from the City of Los Angeles in the State of California to the City of McAlester in the State of Oklahoma, consigned to the Cochran Grocery Company, a co-partnership of McAlester, Oklahoma, being all of such consignment therein; and that said articles of food were so transported in interstate commerce and consigned and

delivered to the Cochran Grocery Company aforesaid wholesale dealers. The Court further finds that on, to-wit, the 15th day of February, 1909, the said Cochran Grocery Company, a co-partnership, executed and delivered to the libelant a good and sufficient bond in the penalty of One Thousand Five Hundred Dollars ($1,500.00) conditioned that the said cases of peaches and apricots with the contents as aforesaid should not be sold or otherwise disposed of contrary to the provisions of said Act of June 30, 1906 or to the laws of any state, territory, district or insular possession, and that said Cochran Grocery Company did on said 15th day of February, 1909, pay all costs of such libel proceedings taxed at ——.

The Court further finds that the articles of food contained in said cases are not adulterated, poisonous or deleterious but that the violation of said Act of Congress is in the misbranding of said cases as to the quantity contained in each case and that the same were consigned only to the wholesale dealer and not sold to the public for consumption.

Wherefore, it is ordered, adjudged and decreed by the Court that the said cases of peaches and apricots with the contents as aforesaid be, and they are hereby, declared to be misbranded in violation of the Act of June 30, 1906, as charged in said libel; and it is further ordered that the said cases of peaches and apricots with the contents as aforesaid, be and they are hereby, condemned and forfeited as provided for in the said Act of June 30, 1906. It is provided, however, that inasmuch as the said Cochran Grocery Company, a co-partnership, has executed to the libelant a good and sufficient bond in the penalty of One Thousand Five Hundred Dollars ($1,500.00) conditioned that the said cases of peaches and apricots with the contents as aforesaid, should not be sold or otherwise disposed of contrary to the provision of said Act of June 30, 1906, or to the laws of any state, territory, district or insular possession, and it appearing to the Court that said Cochran Grocery Company has paid the costs in this case taxed at ——.

It is therefore ordered, adjudged and decreed that the Marshal be, and he hereby is, directed to release the said cases of peaches and apricots with the contents thereof, and restore the same to the claimant, the Cochran Grocery Company.

The Cochran Grocery Company having complied with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1906, the said 329 cases of peaches and 142 cases of apricots were redelivered to it.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 7, 1910.*

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O

F. & D. No. 598.
S. No. 233.

Issued March 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 187, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF CIDER VINEGAR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 80 Barrels of Vinegar, a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of the said 80 barrels of vinegar, lately pending, and finally determined on October 29, 1909, in the District Court of the United States for the Northern District of Illinois by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

On or about June 1, 1909, an inspector of the Department of Agriculture found in the possession of Libby, McNeill and Libby, of Chicago, Ill., 80 barrels of vinegar labeled and branded: "Pure Cider Fermented Apple Vinegar, 45 grain, Made by The Harbauer-Marleau Company, Toledo, Ohio. Guaranteed under the Food and Drugs Act June 30, 1906, No. 8904." The vinegar had been manufactured by the Harbauer-Marleau Company, Toledo, Ohio, and shipped to the said Chicago firm on or about April 21, 1909. A sample of the vinegar was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain dilute acetic acid and a foreign substance high in reducing sugars and artificially colored in a manner to conceal its inferiority.

Vinegar, cider vinegar, or apple vinegar, as recognized by reliable manufacturers and dealers, is the product made by the alcoholic and subsequent acetous fermentations of the juice of apples. From the aforesaid analysis it appeared that the vinegar was adulterated within the meaning of section 7 of the act in that dilute acetic acid, or distilled vinegar, and a foreign substance high in reducing sugars had been mixed and packed with it so as to reduce, lower, or injuriously affect its quality and strength, and in that coloring matter had been mixed with it thereby concealing its inferiority and giving the article the appearance of genuine apple cider vinegar; and was misbranded within the meaning of section 8 of the act in that it was labeled " Pure Cider Fermented Apple Vinegar," whereas it was not a pure cider fer-

mented apple vinegar, but a mixture of dilute acetic acid and other foreign substances colored in imitation of true apple cider vinegar.

Accordingly, on June 2, 1909, the Secretary of Agriculture notified the United States Attorney for the Northern District of Illinois that the aforesaid 80 barrels of vinegar were then in the possession of the above-named Libby, McNeill and Libby, Chicago, Ill., having been shipped as above stated, and that they were adulterated and misbranded within the meaning of the act. On June 3, 1909, the United States Attorney filed a libel in the District Court of the United States for the Northern District of Illinois, praying seizure, condemnation, and forfeiture of the said vinegar. To this libel the Harbauer-Marleau Company appeared, set up its claim to the vinegar, filed its answer, and, together with the United States Attorney, submitted the issue to the court upon an agreed statement of facts, wherein it was admitted by the said parties that the vinegar was adulterated and misbranded as alleged in the said libel. The case having come on for final hearing, on October 29, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

UNITED STATES OF AMERICA NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION.
IN THE DISTRICT COURT THEREOF. JULY TERM, A. D. 1909.

UNITED STATES OF AMERICA
vs.
EIGHTY BARRELS OF VINEGAR.

DECREE.

This cause coming on by motion of Edwin W. Sims, United States Attorney for the Northern District of Illinois, for entry of judgment, this court finds that it has jurisdiction in this case and of the respective parties thereto, and being fully advised in the premises further finds:

1. That on the third day of June in the year of our Lord nineteen hundred and nine, the United States of America, by Edwin W. Sims, its attorney, filed an information in the nature of libel in this court against Eighty Barrels of Vinegar, and that forthwith a monition was issued to the United States Marshal for the Northern District of Illinois, under which monition the said eighty barrels of vinegar were seized in their original packages while in the possession of Libby, McNeill and Libby, at their place of business within the Union Stock Yards at Chicago, in the division and district aforesaid, and by virtue of the said monition and seizure the said eighty barrels of vinegar are now in possession of the United States Marshal at Chicago, in the division and district aforesaid.

2. That the claimant, to wit, The Harbauer-Marleau Company of Toledo, Ohio, has admitted in its answer to the information and libel aforesaid that it is the owner of the goods so seized as aforesaid; that the said goods so seized were shipped from Toledo, in the state of Ohio, to Chicago, in the state of Illinois, on the sixteenth day of April in the year of our Lord nineteen hundred and nine, and that the said eighty barrels of vinegar composing the shipment aforesaid were in the possession of Libby, McNeill and Libby, at their place of business within the Union Stock Yards at Chicago, in the division and district aforesaid, at the time of the said seizure.

3. That the claimant and owner of the eighty barrels of vinegar seized in the manner and form aforesaid, have admitted in their answer to the information and libel

against the said eighty barrels of vinegar, that the eighty barrels filled with an article of food called "Pure Cider Fermented Apple Vinegar," composing the shipment aforesaid, were misbranded and adulterated in manner and form as alleged in the said information.

It is therefore ordered, adjudged and decreed that the said eighty barrels of vinegar composing the interstate shipment aforesaid, are misbranded and adulterated within the terms of section eight and section seven of the Food and Drugs Act of the United States enacted by the Congress of the said United States June 30, 1906, and the same are hereby declared to be forfeited and confiscated to the United States.

It is further ordered, adjudged and decreed, in lieu of the sale of the said property above described, as provided by section ten of the Food and Drugs Act of the United States aforesaid, that upon the payment of all the costs of this libel proceeding and the execution and delivery within thirty days from date hereof of a good and sufficient bond by the claimant, and surety to be approved by this court, or in the absence of the court, by the clerk thereof, in the sum of one thousand dollars, conditioned that said claimant, its successors or assigns shall not dispose of the said eighty barrels of vinegar composing the shipment aforesaid in violation of the Act of Congress enacted June 30, 1906, known as the Food and Drugs Act of the United States, or against the laws of any state, territory or insular possession of the said United States, the said eighty barrels of vinegar now in the possession of the United States be surrendered to the claimant.

The said claimant, the Harbauer-Marleau Company, having complied with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1906, the said 80 barrels of vinegar were redelivered to it.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 7, 1910.*

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F. & D. No. 900.
S. No. 320.

Issued March 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 188, FOOD AND DRUGS ACT.

ADULTERATION OF CURRANTS.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 6 Barrels of Currants, a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of the said 6 barrels of currants, lately pending, and finally determined on November 11, 1909, in the Supreme Court of the District of Columbia by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

On or about September 22, 1909, an inspector of the Department of Agriculture found in the possession of Michael Holzbeierlein, 1849 Seventh street NW., Washington, D. C., 6 barrels of currants labeled: "Perfectly Clean Currants, Royal Excelsior Brand," which were being manufactured and baked into food products and offered for sale in the District of Columbia. Samples taken by the inspector from a barrel which had not been previously opened were examined in the Bureau of Chemistry of the United States Department of Agriculture and found to be infested with worms and other animal matter and so contaminated by the presence of the said worms and other animal matter as to be unfit for human consumption. From the aforesaid examination it appeared that the product was adulterated within the meaning of section 7 of the act in that it consisted of a filthy, decomposed, and putrid vegetable substance unfit for human consumption.

Accordingly, on September 22, 1909, the Secretary of Agriculture notified the United States Attorney for the District of Columbia that the aforesaid 6 barrels of currants were then in the possession of the above Michael Holzbeierlein in the said District, for use in the manufacture of food products to be offered for sale as above stated, and that they were adulterated within the meaning of the act. On September 23, 1909, the United States Attorney filed a libel in the Supreme Court of the District of Columbia praying seizure, condemnation, and forfeiture of the said currants. The time for filing response and answer to said libel having expired and no response or

answer having been filed to said libel and the case having come on for final hearing, on November 11, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE SUPREME COURT OF THE DISTRICT OF COLUMBIA, HOLDING A DISTRICT COURT.

UNITED STATES OF AMERICA, *Libellant*,
vs.
SIX BARRELS, MORE OR LESS, OF CURRANTS. } District No. 847.

JUDGMENT OF CONDEMNATION.

Upon motion of the United States for judgment of condemnation in the above entitled cause, and it appearing to the Court that upon libel filed herein on the twenty-third day of September, A. D. 1909, the Marshal of the United States for the District of Columbia has seized six barrels of currants of the value of twelve dollars; and it further appearing that the said currants were found in the possession of Michael Holzbeierlein, and that said Michael Holzbeierlein was offering the currants for sale in the District of Columbia, and that a copy of the writ was duly served upon the said Michael Holzbeierlein by the United States Marshal, and a copy of the same duly affixed to the Court House door; and that the time for filing the response and answer to the libel herein has expired, and that no response or answer having been filed to said libel, and no objection being signified to the Court; and it further appearing that all of the said barrels of currants are infested with worms and other animal matter, and are so contaminated by the presence of the said worms and other animal matter that the said currants are unfit for human consumption;

It is by the Court this 11th day of November, 1909,

Adjudged, ordered and decreed: That the said six barrels of currants in the custody of the United States Marshal are adulterated within the meaning of the Act of Congress approved June 30, 1906.

It is further ordered: That the said currants be, and they are hereby, condemned, and they shall be destroyed by the said Marshal of the United States in such manner as is provided by the said Act of Congress approved June 30, 1906.

It is further ordered: That the said Michael Holzbeierlein pay all the costs of these proceedings.

By the Court:

WENDELL P. STAFFORD,
Justice.

In compliance with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1906, the said 6 barrels of currants were destroyed.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 7, 1910.*

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F. & D. No. 667.
I. S. No. 17385-a.

Issued March 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 189, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VINEGAR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 27th day of August, 1909, in the District Court of the United States for the Eastern District of Michigan, in a prosecution by the United States against the Gordon Vinegar Company, a corporation of Pontiac, Mich., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Michigan to Ohio an adulterated and misbranded vinegar, the said Gordon Vinegar Company entered a plea of *nolo contendere* and the court sentenced it to pay the costs of the case.

The facts in the case were as follows:

On February 18, 1909, an inspector of the Department of Agriculture purchased from the W. W. Harper Company, Zanesville, Ohio, a sample of a food product labeled: "Gordon Vinegar Co. 46. Apple Cider Vinegar. Fermented. Pontiac, Mich.", which was part of a shipment made by the Gordon Vinegar Company from Pontiac, Mich., to the said W. W. Harper Company on or about December 26, 1908. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and the following results obtained and stated:

Solids	1.91
Reducing sugar invert	1.16
Per cent sugar in solids	60.8
Polarization, direct, temp. °C. 26 and 20	−2.6
Polarization, invert, temp. °C. 26	−2.6
Ash	0.26
Alk. sol. ash (cc N/10 acid per 100 cc)	29.1
Sol. phos. acid (mgs. per 100 cc)	1.5
Insol. phos. acid., (mgs. per 100 cc)	11.1
Acid, as acetic (wines tartaric)	4.64
Volatile acid, as acetic	4.64
Fixed acid, as malic (wines, tartaric)	0.0
Lead precipitate	Small.
Color, degrees, brewer's scale 0.5 in	4.0
Color removed by Fuller's earth (per cent)	65.0
Ash in solids (per cent)	13.9
Salicylates and benzoates	Negative.
Ratio $\frac{P_2O_5 \text{ water sol.}}{P_2O_5 \text{ total}}$ (per cent)	11.9

Vinegar, cider vinegar, apple vinegar, as recognized by reliable manufacturers and dealers, is the product made by the alcoholic and subsequent acetous fermentations of the juice of apples. The analysis of the aforesaid sample disclosed that it contained dilute acetic acid, or distilled vinegar, and a foreign material high in reducing sugars. Hence the article was adulterated within the meaning of section 7 of the act in that a mixture of dilute acetic acid, or distilled vinegar, and a foreign material high in reducing sugars had been substituted wholly or in part for the vinegar which it purported to be, and was misbranded within the meaning of section 8 of the act in that it was labeled "Apple Cider Vinegar", which statement was false, misleading, and deceptive because it was not an apple cider vinegar, but a mixture of dilute acetic acid, or distilled vinegar, and a foreign substance high in reducing sugars.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to the W. W. Harper Company, the dealer from whom the sample was procured, and also to the Gordon Vinegar Company, the manufacturer and shipper, and gave them an opportunity to be heard. The Gordon Vinegar Company being the party solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on July 26, 1909, the said Secretary reported the facts and evidence to the Attorney-General, by whom they were referred to the United States Attorney for the Eastern District of Michigan, who filed an information against the Gordon Vinegar Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 7, 1910.*

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O

F. & D. No. 759.
I. S. No. 16829-a.

Issued March 4, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 190, FOOD AND DRUGS ACT.

MISBRANDING OF RICE.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 3d day of September, 1909, in the District Court of the United States for the District of Oregon, in a prosecution by the United States against S. H. Harris, of Portland, Ore., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Oregon to Washington a quantity of misbranded rice, the said S. H. Harris entered a plea of guilty and the court imposed upon him a fine of $25.

The facts in the case were as follows:

On March 18, 1909, an inspector of the Department of Agriculture purchased from Higgins & Hendricksen, Vancouver, Wash., a sample of a food product labeled "Mikado No. 1 Fancy Japan Rice. Coated with Glucose and Talc, Remove by washing before using," which formed part of a shipment made by S. H. Harris from Portland, Ore., to Higgins & Hendricksen, Vancouver, Wash., on or about February 25, 1909. The sample was examined in the Bureau of Chemistry of the United States Department of Agriculture, where it was found to be a product of domestic Southern origin. It appeared that the product was misbranded within the meaning of section 8 of the act in that it was labeled "Mikado No. 1 Fancy Japan Rice," which statements were false and misleading in that they tended to induce the purchaser to believe that he was buying a product grown and manufactured in Japan, whereas the product was grown and manufactured in the United States of America.

It appearing from the aforesaid examination that the article was misbranded, the Secretary of Agriculture gave notice to Higgins & Hendricksen, the dealers from whom the sample was purchased, and to the Louisiana Rice Milling Company (S. H. Harris), the manufacturer and shipper, and gave them an opportunity to be heard. S. H. Harris being the party solely responsible for the misbranding of the article and failing to show any fault or error in the result of the aforesaid examination, and it being determined that the article

was misbranded, on August 10, 1909, the said Secretary reported the facts and evidence to the Attorney-General, by whom they were referred to the United States Attorney for the District of Oregon, who filed an information against S. H. Harris, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 7, 1910.*

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O

I. S. No. 17525-a.
F. & D. No. 903.

Issued March 5, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 191, FOOD AND DRUGS ACT.

MISBRANDING OF A DRUG—"DR. PARKER'S UNIVERSAL HEADACHE CURE."

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 12th day of October, 1909, in the District Court of the United States for the Eastern District of Wisconsin, in a prosecution by the United States against W. R. Plank Drug Company, a corporation of Fond du Lac, Wis., for violation of section 2 of the aforesaid act in the shipment from Wisconsin to Michigan of a drug contained in packages labeled and branded: "Dr. Parker's Universal Headache Cure, Price 10 cents. Serial No. 13788. Guaranteed under the Food and Drugs Act June 30, 1906. Each dose contains 3½ grains of Phenylacetamide and ½ grain Caffeine Cit. Prepared only by Plank Drug Company, Fond du Lac, Wis., Successors to Stiles and Givens Company," which was misbranded within the meaning of section 8 of the act in this, that it contained acetanilide and the package failed to bear a statement on the label of the quantity or proportion of said acetanilide contained therein, the said W. R. Plank Drug Company having on the aforesaid date entered its plea of guilty to the information filed by the United States Attorney alleging the aforesaid offense, the court imposed upon it a fine of $25.

The facts in the case were as follows:

On or about February 10, 1909, an inspector of the Department of Agriculture purchased from the Michigan Drug Company, Detroit, Mich., a sample of a drug contained in packages labeled as above stated. This sample was part of a shipment of like drugs received by the said Michigan Drug Company on or about February 3, 1909, from W. R. Plank Drug Company, Fond du Lac, Wis. The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to consist of acetanilide, caffeine, sodium bicarbonate, and gummy material. As the drug contained acetanilide and there was no statement on the label of the quantity or proportion of said acetanilide contained therein other than by reference to the content of phenylacetamide, a synonym of acetanilide but a term not recognized by the Food and Drugs Act as a

substitute therefor in the labeling of articles containing acetanilide, it appeared that the drug was misbranded within the meaning of section 8 of the act, and the Secretary of Agriculture gave notice of the fact to the Michigan Drug Company, the party from whom the sample was procured, as well also as to W. R. Plank Drug Company, the manufacturer and shipper of the drug, and gave them an opportunity to be heard, and it appearing that the act had been violated by the said W. R. Plank Drug Company, the said Secretary, on September 24, 1909, reported the facts and evidence to the Attorney-General, by whom they were referred to the United States Attorney for the Eastern District of Wisconsin, who filed an information against the said W. R. Plank Drug Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 7, 1910.*

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I. S. Nos. 9481-a, 9251-a, 9825-a.
F. & D. Nos. 647, 660, 723.

Issued March 5, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY

NOTICE OF JUDGMENT NO. 192, FOOD AND DRUGS ACT.

ADULTERATION OF A DRUG—POWDERED COLOCYNTH.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on October 19, 1909, in the District Court of the United States for the Eastern District of Wisconsin, in a prosecution by the United States against Huber & Fuhrman Drug Mills, a corporation of Fond du Lac, Wis., for violation of section 2 of the aforesaid act in the shipment from Wisconsin to Texas, Michigan, and Ohio of powdered colocynth which was adulterated within the meaning of section 7 of the act in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down in said Pharmacopoeia, the said Huber & Fuhrman Drug Mills having entered its plea of guilty to the information filed by the United States Attorney alleging the aforesaid offenses, the court imposed upon it a fine of $25.

The facts in the case were as follows:

On July 4, June 12, and September 19, 1908, inspectors of the United States Department of Agriculture purchased from J. J. Schott, Galveston, Tex., Michigan Drug Company, Detroit, Mich., and Theodore Rosenthal, Cincinnati, Ohio, respectively, samples of a drug contained in packages labeled and branded, respectively: "3 lbs. Strictly Pure Powdered Colocynth. Huber & Fuhrman Drug Mills, Fond du Lac, Wis.", "One pound Strictly Pure Pulverized Colocynth Apples, Cucumis Colocynthis. We warrant the contents of this box pulverized from prime stock and strictly pure, as indicated by its label, and we will give $5.00 in gold to anyone who finds any adulteration in it. Huber & Fuhrman Drug Mills, Fond du Lac, Wis.", and "3 lbs. Strictly Pure Powdered Colocynth. Guaranteed under the Food & Drugs Act June 30, 1906. Our Serial No. 2210. Huber & Fuhrman Drug Mills, Fond du Lac, Wis." These samples were part of shipments of like drugs received by the aforesaid parties during the months of June and July, 1908, from Huber & Fuhrman Drug Mills, Fond du Lac, Wis. The samples were analyzed in the Bureau of Chemistry of the United States Department of Agriculture and

found to consist of a mixture of pulp and seeds of colocynth apples. The United States Pharmacopoeia, official at the time of investigation, prescribes that in preparing colocynth for medicinal use the seeds should be separated and rejected. As the aforesaid analysis disclosed that the drug contained seeds, it appeared that it was adulterated within the meaning of section 7 of the act in that it was sold under a name recognized in the United States Pharmacopoeia and differed from the standard of strength, quality, and purity as determined by the test laid down in said Pharmacopoeia, and the Secretary of Agriculture gave notice to the respective parties from whom the samples were procured, as well also as to the Huber & Fuhrman Drug Mills, the manufacturer and shipper of the drug, and gave them an opportunity to be heard, and it appearing that the act had been violated by the said Huber & Fuhrman Drug Mills, the said Secretary, on July 16, August 2, and August 6, 1909, respectively, reported the facts and evidence to the Attorney-General, by whom they were referred to the United States Attorney for the Eastern District of Wisconsin, who filed an information against the said Huber & Fuhrman Drug Mills, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 7, 1910.*

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O

F. & D. No. 546.
S. 200.

Issued March 5, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 193, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF CIDER VINEGAR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 25 Barrels of Vinegar, labeled "Oakland Apple Brand Cider Vinegar, Fermented. Oakland Vinegar & Pickle Company, Saginaw, Michigan," a proceeding of libel under section 10 of the aforesaid act for the seizure of said 25 barrels of vinegar, lately pending, and finally determined on October 11, 1909, in the District Court of the United States for the Northern District of Ohio by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

A sample of the vinegar labeled and branded "Oakland Apple Brand Cider Vinegar, Fermented. Oakland Vinegar & Pickle Company, Saginaw, Michigan. The cider vinegar in this barrel is superior and guaranteed by the manufacturers to conform in every particular with the pure food laws of Michigan or any State where pure food laws are in force and pertaining to fermented pure cider vinegar," had been analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to contain dilute acetic acid, or distilled vinegar, and a foreign substance high in reducing sugars, when an inspector of said Department found in the possession of The Dannemiller Grocery Company, Canton, Ohio, 25 barrels of vinegar labeled as aforesaid. The vinegar had been shipped to The Dannemiller Grocery Company, Canton, Ohio, by the Oakland Vinegar & Pickle Company from Saginaw, Mich. From the aforesaid analysis it appeared that the vinegar was adulterated within the meaning of section 7 of the act in that it was sold as a pure cider vinegar, whereas it was, in fact, a product composed in part of dilute acetic acid, or distilled vinegar, together with a foreign substance high in reducing sugars, mixed in imitation of cider vinegar, and misbranded within the meaning of section 8 of the act in that it was labeled and branded "Oakland Apple Brand Cider Vinegar" and further labeled "The cider vinegar in this barrel is superior and guaranteed by the manufacturers to conform in every particular with the pure food laws of

Michigan or any State where pure food laws are in force and pertaining to fermented pure cider vinegar," which statements were false and misleading in that the product contained therein was not a pure cider vinegar, but consisted in part of dilute acetic acid, or distilled vinegar, and a foreign substance high in reducing sugars.

Accordingly, on April 10, 1909, the Secretary of Agriculture notified the United States Attorney for the Northern District of Ohio that the aforesaid 25 barrels of vinegar were then in the possession of the above-stated Dannemiller Grocery Company, Canton, Ohio, having been shipped as above stated, and that they were adulterated and misbranded within the meaning of the act. On April 10, 1909, the United States Attorney filed a libel in the District Court of the United States for the Northern District of Ohio praying seizure, condemnation, and forfeiture of the said vinegar. No answer having been filed to said libel and the case having come on for final hearing, on October 11, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES. NORTHERN DISTRICT OF OHIO. EASTERN DIVISION.

THE UNITED STATES OF AMERICA, *Libellant*, *vs.* TWENTY-FIVE BARRELS OF VINEGAR, LABELED "OAKLAND APPLE BRAND Cider Vinegar, Fermented. Oakland Vinegar & Pickle Company, Saginaw, Michigan", *Respondent.*	No. 107.

JUDGMENT OF CONDEMNATION.

This cause coming on to be heard upon the motion of William L. Day, United States Attorney for the Northern District of Ohio, for judgment of condemnation, and it appearing to the Court that the warrant of arrest issued herein was duly served, and that by virtue thereof the Marshal of the United States for the Northern District of Ohio, has seized the twenty (20) barrels with contents specified in the said Libel, and it appearing that all parties in interest were cited by publication duly published according to law on the 14th day of April, 1909, to appear herein on or before the 3d. day of May, 1909, and it appearing that The Oakland Vinegar & Pickle Company, of Saginaw, Michigan, The Dannemiller Grocery Company, of Canton, Ohio, have failed to answer to the said Libel, and are in default for answer, and that the said The Oakland Vinegar & Pickle Company consent to a default and judgment under the same, it is on this 11th day of October, A. D. 1909,

Ordered, adjudged and decreed that the said twenty barrels with contents as aforesaid labeled and branded "Oakland Apple Brand Cider Vinegar, Fermented. Oakland Vinegar & Pickle Company, Saginaw, Michigan"; and further labeled and branded "The cider Vinegar in this barrel is superior and guaranteed by the manufacturers to conform in every particular with the pure food laws of Michigan, or any state where pure food laws are enforced, and pertaining to fermented pure cider vinegar", are misbranded, in violation of the Food and Drugs Act of June 30, 1906, as charged in the said Libel.

And it is further Ordered, Adjudged and Decreed that the said liquid contained in the said twenty barrels is adulterated in violation of the Food and Drugs Act of

June 30, 1906, in that the article therein contained and labeled and branded and purporting to be pure cider vinegar, is not a pure cider vinegar, but is a product composed in part of cider vinegar high in reducing sugars, to which has been added dilute acetic acid, mixed in imitation of cider vinegar, as charged in the said Libel.

And it is further Ordered, Adjudged and Decreed that the said twenty barrels of liquid aforesaid, be and they are hereby condemned, and ordered to be disposed of by destruction or by sale, in such manner as is not in conflict with the Food and Drugs Act of June 30, 1906.

It is provided, however, that on the payment of all costs of this proceeding, including costs of the Marshal, of storage, hauling and all other costs incurred, and the execution and delivery by the said claimant The Oakland Vinegar and Pickle Company of a proper bond in the penal sum of Five Hundred Dollars ($500.00), conditioned that the said twenty barrels with contents, as described in the said Libel, shall not continue their present branding or be further branded in violation of the said Food and Drugs Act of June 30, 1906, and that the liquid contained in the said barrels shall not be sold, used or disposed of in violation of the Food and Drugs Act of June 30, 1906, the said Marshal shall re-deliver the said twenty barrels and contents to the said claimant, The Oakland Vinegar and Pickle Company, of Saginaw, Michigan, in lieu of disposing of them by destruction or sale, as aforesaid.

The said claimant, the Oakland Vinegar & Pickle Company, having complied with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1906, the said 25 barrels of vinegar were redelivered to it.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 7, 1910.*

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Issued March 5, 1910.

F. & D. Nos. 121 and 243.
I. S. Nos. 11606 and 7482.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 194, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF LEMON EXTRACT.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States against the Edward Westen Tea & Spice Company for violations of section 2 of the aforesaid act, lately pending in the District Court of the United States for the Eastern District of Missouri.

On October 31, 1907, an inspector of the Department of Agriculture purchased from B. C. Twenhofel, Kansas City, Kans., a sample of a food product labeled "Superior Quality Wyandotte Pure Lemon Flavor for flavoring ice cream, pastry, etc. Put up for B. C. Twenhofel, Kansas City, Kans." This sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and was found to contain not more than two-tenths of 1 per cent, if any, of lemon oil and no citral.

On August 22, 1907, an inspector of the Department of Agriculture purchased from M. M. Smith, Holdenville, Ind. T., a sample of a food product labeled "Puritan Brand Flavor of Lemon for flavoring Ice Cream, Pastry, etc. Edw. Westen Tea and Spice Co. St. Louis." This sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to be a liquid containing no lemon oil and only a trace of citral.

From the aforesaid analyses it appeared that the articles were adulterated within the meaning of section 7 of the act in that a solution containing but two-tenths of 1 per cent of oil of lemon, in one case, and a highly dilute solution of citral, containing no oil of lemon, in the other, had been substituted for the genuine articles; and were mis-

branded within the meaning of section 8 of the act in that they were labeled "Superior Quality Wyandotte Pure Lemon Flavor," in the one case, and "Puritan Brand Flavor of Lemon," in the other, which statements were false and misleading in that the products were not lemon flavor, but a dilute solution containing two-tenths of 1 per cent of oil of lemon and a dilute solution of citral, respectively.

It appearing from the aforesaid analyses that the articles were adulterated and misbranded, the Secretary of Agriculture gave notice to B. C. Twenhofel, Kansas City, Kans., and M. M. Smith, Holdenville, Ind. T., the dealers from whom the samples were purchased, and to the Edward Westen Tea & Spice Company, St. Louis, Mo., the manufacturer and shipper, and gave them an opportunity to be heard. The Edward Westen Tea & Spice Company being the party solely responsible for the adulteration and misbranding of the articles and failing to show any fault or error in the results of the aforesaid analyses, and it being determined that the articles were adulterated and misbranded, on June 20, 1908, and December 4, 1908, respectively, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Eastern District of Missouri, who filed informations against the Edward Westen Tea & Spice Company. The cases having duly come on for hearing on the facts as alleged in the informations and the defendant's pleas of not guilty, and a jury having been demanded by the defendant, the issue was submitted to a jury upon the testimony, argument of counsel, and the following instructions of the court:

St. Louis, *November 30, 1909.*

United States of America
vs.
Edward Westen Tea & Spice Company.

CHARGE OF JUDGE DYER.

Gentlemen of the Jury:

The Act of Congress under which these informations have been filed, went into effect on the 1st day of January, 1907. It is, therefore, quite a recent statute.

The States in their separate capacities, may have undertaken to regulate the sale of food products, but until this Act was passed Congress had taken no effective action to prevent the adulteration and misbranding of articles of drugs, food, etc.

Here we have only to deal with Congressional acts.

The Court has nothing to do with State statutes applying to the same thing. This court gets jurisdiction only by virtue of an Act of Congress conferring upon the court the jurisdiction to try such offenses as these.

Congress has the power to legislate for the Territories, including the District of Columbia. The laws passed by Congress with reference to the manufacture and sale of articles in the Territories and the District of Columbia, is exclusively with Congress.

Under the Interstate Commerce laws, Congress has undertaken to say what shall and what shall not be proper shipments in interstate commerce between States. It has undertaken to say in the Act to which I have referred, what is an adulteration

and what is a misbranding of articles manufactured and sent to other places within the State proper. Under the Constitution Congress had full and complete authority to do that.

The first section of this Act refers to the District of Columbia and the Territories.

The second section prohibits the sending in interstate commerce, from one State to another, articles of food that are adulterated or articles of food that are misbranded, and they have announced a penalty in the statute against those things.

In view of what has been said by counsel in reference to this recent Act of Congress, it will probably not be unprofitable for the Court to say something in reference to the matter.

The second section of the statute, to which I call your attention, provides:

"That the introduction in any state or territory, or the District of Columbia, from any other State or Territory, or the District of Columbia, or from any foreign country, or shipment to any foreign country of any article of food or drugs which is adulterated or misbranded, within the meaning of this act, is hereby prohibited. And any person who shall ship, or deliver for shipment, from any state or territory or the District of Columbia, or to any other state or territory, or the District of Columbia, or to a foreign country; or who shall receive in any state or territory or the District of Columbia, from any other state or territory or the District of Columbia, or foreign country, and having so received shall deliver in original, unbroken packages, for pay or otherwise, or offer to deliver to any other person any such article so adulterated or misbranded, within the meaning of this act; or any person who shall sell or offer for sale in the District of Columbia or the territories of the United States any such adulterated or misbranded foods or drugs; or export or offer to export the same to any foreign country, shall be guilty of a misdemeanor and for such offense be fined not exceeding two hundred dollars ($200.) for the first offense; and upon conviction, for each subsequent offense not exceeding three hundred dollars ($300.), or by imprisonment not exceeding one year, or both, in the discretion of the court."

So as to acquaint you, as the court has tried to acquaint himself, with the modus operandi provided by this statute for finding out and ascertaining whether or not this law has been violated, the third section provides that the Secretary of the Treasury, the Secretary of Agriculture and the Secretary of Commerce and Labor, shall make uniform rules and regulations for carrying out the provisions of this Act, including the collection and examinations of specimens of food and drugs manufactured or offered for sale in the District of Columbia, or any of the Territories of the United States; or which shall be received from any foreign country, or intended for shipment to any foreign country; or which shall be submitted for examination, or at any domestic or foreign port through which said product is offered for interstate commerce.

There is the authority conferred upon these members of the different Departments, to make regulations for the gathering of testimony or evidence, so to speak, of any violation of these laws. Then it was provided, and was read here in the stipulation:

"That the examination of specimens of food and drugs shall be made in the Bureau of Chemistry of the Department of Agriculture, under the direction and supervision of said Bureau, for the purpose of determining from such examination whether such articles are adulterated or misbranded, within the meaning of this act."

You will see by the testimony in this case, that in each of these cases a Government officer went to the place of business of the parties named and bought from them the bottles containing this mixture, and he sent them to the laboratory—one to the Boston and the other to the Chicago laboratory, all passed upon by the Government authorities and by them found to be adulterated.

Then what follows? The Government does not put a defendant to trial because of that inquiry alone, but it goes further and says: if that be found to be so from the examinations made of this product (and you will remember that the officers of the Government, who bought these articles, testified here that they sent two bottles to one place, two bottles to another place, and the remaining two bottles were left with the person from whom they were taken), as shown in those bottles, that they had been adulterated, and that they had been misbranded, then they were required to go further, after that was ascertained.

"Finding that they were adulterated or misbranded, within the meaning of the Act, the Secretary of Agriculture shall cause notice thereof to be given to the party from whom such samples were obtained."

So this defendant was notified by the Secretary of Agriculture that these articles had been bought and that they had been found to be adulterated; but before authorizing any action to be taken by the District Attorney, a hearing was had, at which the defendant was authorized to appear; and after that hearing (the Department being still satisfied, from the hearing, that the articles had been adulterated or misbranded), it became the duty of the Secretary under this Act of Congress, to transmit to the District Attorney instructions to begin the proceedings, together with a copy of the analysis made at the time of the examination.

From the evidence in these cases, and from the stipulation filed, it appears all of that was done, and these proceedings commenced. This Act provides that:

"For the purpose of this Act an article shall be deemed to be adulterated in case of food, first, if any substance has been mixed and packed with it so as to reduce or lower or injuriously affect its quality or strength; second, if any substance has been substituted wholly or in part for the article; third, if any valuable constituent of the article has been wholly or in part abstracted; fourth, if mixed, colored or powdered in a manner whereby damage or inferiority is concealed."

That is in reference to the article itself. Then in the same article, Section 8, it says:

"That the term 'misbranded' as used herein shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the package or label of which shall bear any statement, design or device regarding such articles or the ingredient or substance contained therein, which shall be false or misleading in any particular and to any food or drug product which is falsely branded, of such territory or country in which it is manufactured or produced."

So you will see what the purpose of Congress was, that no one who is desirous of knowing what the law is in that regard may make any mistake about it. The law requires the manufacturer to be honest in his statement of the contents of the package; it requires him to be honest in stating the truth upon the labels put upon it. That is all there is to the act. That is what the act is intended to accomplish, and which, if properly enforced, in my judgment, will accomplish.

It is the duty of you and of this court to obey the law and to enforce it; to enforce this statute as you would enforce every other statute. But it is not out of place for me to say here, that in the judgment of the court, no act of congress has been passed in recent years of more importance than this one.

In dealing in food stuffs, the seller should, and ought to know, what he is selling, and, on the other hand, the buyer should know what he is buying.

This statute is not to be evaded by a mere subterfuge. It is to be enforced according to its letter and its spirit, and when that is done no one suffers by it.

Now I have said that much in reference to this statute because, as it has been said, it is a recent statute and it may be proper that the statute should be given a fair interpretation, and I repeat that the statute is so plain as to the purpose and intent of congress that there is no excuse for its violation.

There were three separate informations filed against this defendant in this court. They are numbered respectively 5394, 5427 and 5400. You are to consider only the two, 5427 and 5394. 5400, as I will direct you, is not supported by the testimony in this case, because the witness that was here from Oklahoma was not sufficiently able to state with positiveness that the article that the inspector found in his store was in the shipment made in 1907 or in 1906; and upon that information (the only count of which is for misbranding), you will be directed to find a verdict of not guilty. Let us see what, in effect, the remaining two are:

If they had been filed at the same time it would have been perfectly proper for the United States Attorney to have included in one information each of the counts that are embraced in these two; but they were filed at different times, and hence, when the cases were called they were consolidated for the purpose of trial. There is no question about the shipments; no question about them having been sent from here to the places mentioned; that is all supported and agreed upon. This first count, No. 5427, charges that shipment was made by this defendant from the City of St. Louis, of articles for sale in interstate commerce "then and there labeled 'Puritan Brand Flavor of Lemon for flavoring ice cream, pastry, etc. Edw. Westen Tea & Spice Co. of St. Louis' (band around the neck labeled "Strictly Pure"), which bottle was part of a larger consignment consisting of one box of bottled extracts shipped by Westen & Company, from St. Louis, to M. M. Smith, Holdenville, Indian Territory; that the contents of said bottle were adulterated, in violation of the act of congress of June 30th, 1906; that said bottle contained a liquid which was not flavor of lemon; that true and genuine flavor of lemon, or lemon extract, is a solution of not less than 5 per cent by volume of oil of lemon in grain alcohol; and that the liquid contained in said bottle contained no oil of lemon; that another substance, to-wit: a highly diluted alcoholic solution of citral had been substituted wholly for the article, all of which was to the defendant well known."

That is the first charge in the first count of this information, and the second count charges that the article was misbranded. You have in the first count the allegation and charge that this was an adulteration within the meaning of the statute. The second count charges that it was misbranded.

The other information charges substantially the same thing, only that it was shipped to a different person, in Kansas, instead of the Indian Territory, and the charge in the first count of this information is as to the same articles—"That the contents of said bottle were adulterated in violation of the act of congress of June 30th, 1906, in this, that the said bottle contained a liquid which was not pure lemon flavor; that true and genuine lemon flavor, or lemon extract, is a solution of not less than five per cent (5%) by volume of oil of lemon in grain alcohol and that the liquid contained in said bottle contained about two-tenths of one per cent by volume of oil of lemon, and that another substance, to-wit: a two-tenths of one per cent solution of oil of lemon has been substituted wholly for the article and that other substances had been mixed and packed with the liquid contained in said bottle, so as to reduce and lower and injuriously affect its quality and strength."

That is the first count of that. The second count is for misbranding, charging that this article so sent was misbranded by calling it a "Superior Quality of Wyandotte Pure Lemon Flavor for flavoring ice cream, pastry," etc.

These are the four counts with which you have to deal. A great deal of testimony has been offered here as to whether the words "lemon extract" and "lemon flavor" are used in the trade as synonymous terms. It is not my purpose to comment upon that testimony, although I have a right to do so. I prefer not to do so. I propose to submit these questions to you as business men and as intelligent men, able to judge well as the court, the value of the testimony that has been given here before you. It is for you to determine from the evidence whether or not the terms "lemon flavor" and "lemon extract" are synonymous and mean one and the same thing.

The contention of the Government is that "lemon extract" and "lemon flavor" both mean the same article, while the defendant contends that they do not. It is for you to determine whether by "lemon extract" and by "lemon flavor" is meant the same thing in the business world—in the trade, and whether or not the brand upon this bottle of "lemon flavor" would indicate to the purchaser that it was an article like or equivalent to "lemon extract."

This statute imposes a penalty for its violation and to that extent is what we call a criminal proceeding against this defendant. In this case, as in all cases of a criminal character, the defendant is entitled to the benefit of any reasonable doubt arising in the minds of the jurors touching the inquiry that they have in hand. By a reasonable doubt is meant not a mere suspicion, but a doubt, arising from the evidence in the case, that would lead you to have a doubt as to whether or not the party is guilty of the offense as charged, and I may give in that connection an instruction that is asked by the defendant, to-wit:

"The court instructs the jury that it is the duty of the government to satisfy them beyond a reasonable doubt, of all the facts necessary to convict the defendant, on each and every count, of each and every information; and if, in respect to any of said counts the jury entertain a reasonable doubt, it will be their duty on such count to return a verdict in favor of the defendant."

"The court does not mean, however, that such doubt may be a mere suspicion of doubt or a mere conjecture, but if the evidence fairly leaves the jury in a state of uncertainty as to the guilt of the defendant on any of the counts, they should return a verdict thereon of not guilty."

You have heard the testimony of various witnesses as to what the rule was that obtained prior to the passage of the Pure Food Law. Some witnesses have said that before the passage of that act there was no difference, to the trade, between the words "extract" and "flavor"—that they were used synonymously; that since the Pure Food Act was passed there has arisen some question as to whether a diluted extract of lemon may be considered a flavor—whether a per cent less than five would still make a lemon flavor. All of these matters I submit to you. You have seen the witnesses on the stand and you have observed their manner and demeanor. If you think any one has sworn falsely, you are at liberty to discredit the entire testimony of such a witness.

The Marshal will have a form of formal verdict prepared by the Clerk, for your consideration. I may also say, and I should have said at the time, that the hearing had before the Secretary of Agriculture, or before the officer of the Department of Agriculture as to whether there was any adulteration of this product, or misbranding, is not to be considered as any evidence whatever against this defendant. I have only mentioned the law as providing certain things to be done, and certain things that the Secretary must do, after he in his own mind is satisfied, but none of those things has any binding effect upon you or the defendant here in this trial. I may also say that no regulation (if there be such a regulation) made by any officer of the Government, is binding upon the defendant. You are to determine this case from the facts as charged in the information, as to what was understood in the trade and commerce of the meaning of these two terms.

On November 30, 1909, the jury having returned a verdict of guilty, the court imposed upon the defendant a fine of $50 on each count, amounting in all to $200.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 12, 1910.*

F. & D. No. 850.
I. S. No. 23182-a.

Issued March 5, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 195, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VINEGAR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 22d day of November, 1909, in the District Court of the United States for the Eastern District of Missouri, in a prosecution by the United States against A. Braun Manufacturing Company, a corporation of St. Louis, Mo., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Missouri to Illinois an adulterated and misbranded vinegar, the said A. Braun Manufacturing Company entered a plea of guilty and the court imposed upon it a fine of $10.

The facts in the case were as follows:

On April 29, 1909, an inspector of the Department of Agriculture purchased from the Kohl-Meyer Grocery Company, Centralia, Ill., a sample of a food product labeled "Manufactured for Kohl-Meyer Grocery Co., Centralia, Ill. 46 Fermented. 46 Sugar Vinegar. Serial No. 12385. St. Louis, Mo." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to be a compound of part sugar vinegar with part spirit vinegar, or distilled vinegar. From the aforesaid analysis it appeared that the article was adulterated within the meaning of section 7 of the act in that another substance, to wit, spirit, or distilled vinegar, had been substituted in part for the genuine food product, and that the said article was offered for sale under the distinctive name of another article; and was misbranded within the meaning of section 8 of the act in that it was labeled "46 Sugar Vinegar," which statement was false and misleading because it was not sugar vinegar, but a compound of sugar vinegar and spirit, or distilled vinegar.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to the

Kohl-Meyer Grocery Company, the dealers from whom the sample was purchased, and also to the A. Braun Manufacturing Company, the manufacturer and shipper, and gave them an opportunity to be heard. The A. Braun Manufacturing Company being the party solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on September 10, 1909, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Eastern District of Missouri, who filed an information against the A. Braun Manufacturing Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 12, 1910.*

195

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F. & D. No. 743.
I. S. No. 20064-a.
Issued March 5, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 196, FOOD AND DRUGS ACT.

MISBRANDING OF OIL OF LEMON.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 9th day of December, 1909, in the Circuit Court of the United States for the Southern District of New York, in a prosecution by the United States against David W. Hutchinson, New York City, N. Y., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from New York to New Jersey a misbranded oil of lemon, the said David W. Hutchinson entered a plea of guilty and the court imposed upon him a fine of $2.

The facts in the case were as follows:

On February 17, 1909, an inspector of the Department of Agriculture purchased from W. R. Scudder, Newark, N. J., a sample of a food product labeled "D. W. Hutchinson, Essential Oils, 86 Maiden Lane, New York. Oil Lemon ½ lb. net." The sample was examined in the Bureau of Chemistry of the United States Department of Agriculture and it was found that the bottle contained considerably less than one-half pound of lemon oil. Hence the article was misbranded within the meaning of section 8 of the act in that the statement on the bottle as to its contents in terms of weight was false and misleading because said bottle contained considerably less than one-half pound of lemon oil.

It appearing from the aforesaid examination that the article was misbranded, the Secretary of Agriculture gave notice to William R. Scudder, Newark, N. J., the dealer from whom the sample was purchased, and to David W. Hutchinson, New York City, N. Y., the manufacturer and shipper, and gave them an opportunity to be heard. David W. Hutchinson being the party solely responsible for the misbranding of the article and failing to show any fault or error in the result of the aforesaid examination, and it being determined that the article was misbranded, on August 7, 1909, the said Secretary

reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Southern District of New York, who filed an information against David W. Hutchinson, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 15, 1910.*

29062a

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F. & D. No. 709.
I. S. No. 31007-a.
Issued March 5, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 197, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF WHITE WINE VINEGAR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 8th day of December, 1909, in the Circuit Court of the United States for the Southern District of New York, in a prosecution by the United States against Charles L. Hirsh, doing business under the name of Charles L. Hirsh & Company, of New York City, N. Y., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from New York to Pennsylvania an adulterated and misbranded white wine vinegar, the said Charles L. Hirsh entered a plea of guilty and the court imposed upon him a fine of $5.

The facts in the case were as follows:

On May 26, 1909, an inspector of the Department of Agriculture purchased from The New Boston Store, Inc., Pittsburg, Pa., a sample of a food product labeled "Apsco pure white wine vinegar manufactured by A. P. Sichel Co., 353–355 Washington St., New York. Registered." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and it was found to be not a white wine vinegar, but a dilute solution of acetic acid, or distilled vinegar. From the aforesaid analysis it appeared that the product was adulterated within the meaning of section 7 of the act in that there was substituted for pure white wine vinegar a dilute solution of acetic acid, or distilled vinegar, and misbranded within the meaning of section 8 of the act in that it was labeled "Apsco pure white wine vinegar," which statement was false and misleading because it was not pure white wine vinegar, but a dilute solution of acetic acid, or distilled vinegar.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to The New Boston Store, Inc., the dealer from whom the sample was purchased, and to Charles L. Hirsh & Company, the manufacturer and shipper, and gave them an opportunity to be heard. Charles L. Hirsh being the party solely responsible for the adulteration and

misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on August 4, 1909, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Southern District of New York, who filed an information against Charles L. Hirsh, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 15, 1910.*

29061a

O

F. & D. No. 503.
I. S. No. 212-a.

Issued March 9, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 198, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF SYRUP.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 6th day of December, 1909, in the Circuit Court of the United States for the Southern District of New York, in a prosecution by the United States against Charles Israel, Ernest W. Israel, and William E. Israel, doing business under the firm name of Chas. Israel & Bros., all of New York City, N. Y., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from New York to New Jersey an adulterated and misbranded syrup, the said defendants entered a plea of guilty and the court imposed upon each a fine of $10.

The facts in the case were as follows:

On March 4, 1908, an inspector of the Department of Agriculture purchased from R. Feldman, Elizabeth, N. J., a sample of a food product labeled "Pure Vermont Maple Syrup, put up by Chas. Israel & Bros., New York. Guaranteed under the Food and Drugs Act, June 30, 1906, Serial No. 7161." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to consist of a compound of sucrose syrup and maple syrup. Hence the product was adulterated within the meaning of section 7 of the act in that a substance other than maple syrup, to wit, sucrose syrup, was substituted in part for maple syrup, and was misbranded within the meaning of section 8 of the act in that it was labeled "Pure Vermont Maple Syrup," which statement was false and misleading in that it indicated that the said bottle contained pure maple syrup, whereas, as a matter of fact, said bottle did not contain pure maple syrup, but a mixture of maple syrup and sucrose syrup.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to R. Feldman, the dealer from whom the sample was purchased, and also to Chas. Israel & Bros., the manufacturers and shippers, and gave them an opportunity to be heard. Chas. Israel & Bros. being the parties solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on March 13, 1909, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Southern District of New York, who filed an information against the said Chas. Israel & Bros., with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 15, 1910.*

198

O

F. & D. No. 874.
I. S. No. 21333-a.
Issued March 9, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 199, FOOD AND DRUGS ACT.

ADULTERATION AND MISBRANDING OF VINEGAR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 11th day of November, 1909, in the Circuit Court of the United States for the Eastern District of Louisiana, in a prosecution by the United States against the Mills Preserving Company, a corporation of New Orleans, La., for violation of section 2 of the aforesaid act in shipping and delivering for shipment from Louisiana to Florida an adulterated and misbranded vinegar, the said Mills Preserving Company entered a plea of guilty and the court imposed upon it a fine of $10.

The facts in the case were as follows:

On February 15, 1909, an inspector of the Department of Agriculture purchased from James McHugh, Pensacola, Fla., a sample of a food product labeled (on head of barrel) "Mills Preserving Co. Pure Distilled Spirit Vinegar. 29 gals. New Orleans, La. 7–31/94500" (on bottom of barrel) "Colored with Caramel. Cider 30, James McHugh, Pensacola." The sample was analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to be diluted with water and colored with caramel in a manner to conceal its inferiority. Hence it appeared to be adulterated within the meaning of section 7 of the act in that it was sold as pure distilled spirit vinegar, whereas it was not a pure distilled spirit vinegar, but water had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength, and was colored with caramel in a manner to conceal its inferiority; and was misbranded within the meaning of section 8 of the act in that it was labeled "Pure Distilled Spirit Vinegar," which statement was false and misleading, as it indicated that the contents of said barrel were pure distilled spirit vinegar, whereas a certain quantity of water had been mixed with said contents and said contents had been colored with caramel.

It appearing from the aforesaid analysis that the article was adulterated and misbranded, the Secretary of Agriculture gave notice to James McHugh, the dealer from whom the sample was purchased, and to the Mills Preserving Company, the manufacturer and shipper, and gave them an opportunity to be heard. The Mills Preserving Company being the party solely responsible for the adulteration and misbranding of the article and failing to show any fault or error in the result of the aforesaid analysis, and it being determined that the article was adulterated and misbranded, on September 16, 1909, the said Secretary reported the facts and evidence to the Attorney General, by whom they were referred to the United States Attorney for the Eastern District of Louisiana, who filed an information against the Mills Preserving Company, with the result hereinbefore stated.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 15, 1910.*

199

O

F. & D. No. 653.
S. No. 263.

Issued March 16, 1910.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 200, FOOD AND DRUGS ACT.

MISBRANDING OF VINEGAR.

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 75 Packages of alleged Apple Cider Vinegar, etc., a proceeding of libel under section 10 of the aforesaid act for seizure and condemnation of the said 75 packages of apple cider vinegar, lately pending and finally determined on October 26, 1909, in the District Court of the United States for the Middle District of Tennessee by rendition of a decree of condemnation and forfeiture hereinafter fully set out.

A sample of vinegar labeled and branded "Red Star Brand Fermented Apple Cider Vinegar" had been analyzed in the Bureau of Chemistry of the United States Department of Agriculture and found to consist wholly or in part of dilute acetic acid, or distilled vinegar, and a foreign material high in reducing sugars, and artificially colored in imitation of cider vinegar, when an inspector of said Department found in the possession of the American Extract & Vinegar Company, Nashville, Tenn., 75 packages, consisting of 50 half-barrels and 25 barrels, of the aforesaid vinegar, each of the barrels and half-barrels labeled "Red Star Brand Fermented Apple Cider Vinegar—Leroux Cider & Vinegar Co., Toledo, O." The vinegar had been shipped on March 26, 1909, by the Leroux Cider & Vinegar Company from Toledo, Ohio, to the American Extract & Vinegar Company, Nashville, Tenn. From the aforesaid analysis it appeared that the vinegar was misbranded within the meaning of section 8 of the act in that it was labeled "Fermented Apple Cider Vinegar," which statement was false and misleading in that it tended to give the impression that the contents of said packages consisted of apple cider vinegar, whereas, as a matter of fact, they contained a dilute acetic acid, or distilled vinegar, together with a foreign substance high in reducing sugars, which was artificially colored in a manner to conceal its inferiority.

Accordingly, on July 16, 1909, the Secretary of Agriculture notified the United States Attorney for the Middle District of Tennessee that the aforesaid 75 packages of apple cider vinegar were then in the possession of the above-stated American Extract & Vinegar Company, Nashville, Tenn., having been shipped as above stated, and that they were misbranded within the meaning of the act. On July 17, 1909, the United States Attorney filed a libel in the District Court of the United States for the Middle District of Tennessee praying seizure, condemnation, and forfeiture of the said vinegar. The American Extract & Vinegar Company having disclaimed all right, title, or interest to any of the packages of vinegar seized and no answer having been filed to said libel, and the case having come on for final hearing, on October 26, 1909, the court rendered its decree of condemnation and forfeiture in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF TENNESSEE.

UNITED STATES OF AMERICA, *Libelant*, *vs.* SEVENTY-FIVE (75) PACKAGES OF ALLEGED APPLE CIDER VINEGAR, etc., American Extract & Vinegar Co., a corporation, *Claimant*.	No. 1120.

It appearing to the Court, upon the libel filed herein on the 17th day of July, 1909, that monition was duly served and by virtue of such process the U. S. Marshal seized and took into his possession sixty-six (66) packages of alleged apple cider vinegar (there being found nine (9) packages less than were alleged in the libel) described in said libel, there being sixteen (16) barrels and fifty (50) half-barrels of the aforesaid vinegar, each of which was labeled: "Red Star Brand Fermented Apple Cider Vinegar—Leroux Cider & Vinegar Co., Toledo, O."

And it further appearing that the American Extract & Vinegar Company, doing business at No. 134 Second Avenue, South, Nashville, Tennessee, in whose warehouse the aforesaid packages were found and seized, has disclaimed all right, title and interest in said packages seized as aforesaid, as evidenced by an agreement or stipulation this day filed with the Clerk of this Court.

And it further appearing to the Court that the Leroux Cider & Vinegar Co., of Toledo, Ohio, have by counsel, Sigmond Sanger, appeared in open Court, on this the 23rd day of October, 1909, and made claim to the packages of vinegar seized as aforesaid, and admitted that the allegations contained in the libel in this cause, as regards misbranding as charged in paragraph three of the libel, are true, and have consented that the decree of condemnation of said packages so seized may be entered:

It is, on motion of the United States Attorney, therefore, now adjudged, ordered and decreed that the aforesaid sixty-six (66) packages of vinegar, now in the possession of the United States Marshal of this Court, be, and the same are hereby declared to be forfeited and confiscated to the United States, for the reasons alleged in said libel, that said goods are misbranded, the labels on said packages being false and misleading, and in violation of the Act of Congress known as the Food and Drugs Act of June 30, 1906.

It further appearing to the Court that the aforesaid sixty-six (66) packages (barrels and half-barrels) of vinegar may be valuable as a food, and when properly branded,

may be sold without violation of law: It is further ordered, adjudged and decreed that, upon payment by the Leroux Cider & Vinegar Co., of Toledo, Ohio, who makes claim to the same in open Court, of all costs of this cause, including all expenses incurred by the U. S. Marshal in and about the seizure of the aforesaid vinegar, and the storage and watching of, and insurance, if any, and the execution and delivery by the said Leroux Cider & Vinegar Co., or some person for said company, of a good and solvent bond in the penalty of three hundred ($300.00) dollars, to be filed with and approved by the Court, conditioned that said sixty-six (66) packages of vinegar aforesaid shall not be sold or otherwise disposed of contrary to the Food and Drugs Act of June 30, 1906, or contrary to the laws of any State, territory or insular possession of the United States, then the said U. S. Marshal of this Court is hereby directed to deliver the possession of the aforesaid sixty-six (66) packages of vinegar to the Leroux Cider & Vinegar Co., its attorney or agent, which vinegar may be disposed of or sold only when labeled or branded: "A Mixture; approximately 40% Apple Cider Vinegar," or in substance and effect so labeled or branded.

In the event the Leroux Cider & Vinegar Co. should fail to pay said costs, etc., or fail to give the bond required, as above provided within ten days from the date of the entry of this order, then the U. S. Marshal of this Court is directed, after first properly branding or labeling the packages, or barrels and half-barrels, containing the aforesaid vinegar, "A Mixture; approximately 40% Apple Cider Vinegar," to advertise said vinegar for sale in some newspaper published in Nashville, Tennessee, for the period of ten (10) days, and sell the same for cash to the highest bidder, the proceeds arising from said sale, less legal costs and charges, to be paid into the Treasury of the United States.

The said claimant, the Leroux Cider & Vinegar Company, of Toledo, Ohio, having complied with the terms of the aforesaid decree and section 10 of the Food and Drugs Act of June 30, 1906, the said 66 packages of vinegar were redelivered to it.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *February 15, 1910.*

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NOTICES OF JUDGMENT.

FOODS.

DRUGS.